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June 23, 2009

Mr. Jeff DeRouen
Executive Director
Public Service Commission
211 Sower Boulevard, P.O. Box 615
Frankfort, Kentucky 40602-0615

RECEIVED

JUN 24 2009

PUBLIC SERVICE
COMMISSION

Re: *In the Matter of the Applications of Big Rivers Electric Corporation, E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy Marketing, Inc., P.S.C. Case No. 2007-00455*

Dear Mr. DeRouen:

Enclosed on behalf of Big Rivers Electric Corporation (“Big Rivers”) are an original and seven copies of the following documents, which are being filed with the Public Service Commission (“Commission”) for informational purposes:

City of Henderson/Utility Commission of the City of Henderson Documents

- Designated Representative/Alternate Designated Representative Appointment Agreement
- Memorandum of Understanding – Allocation of General & Administrative Expenses
- Supplementary Agreement on SO₂ Emissions Allowances
- Memorandum of Understanding – Reliability Standards Compliance
- Agreement for Assignment of Responsibility for Complying with Reliability Standards (not blacklined)
- Letter Agreement – Station Two Operating Procedures

Evidences of Indebtedness

- Amended and Consolidated Loan Contract between Big Rivers and United States of America
- Big Rivers, Grantor to U. S. Bank National Association, Trustee, Indenture – First Mortgage Obligations

Telephone (270) 926-4000

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100 St. Ann Building

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Owensboro, Kentucky

42302-0727

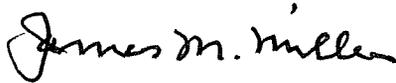
Mr. Jeff DeRouen
June 23, 2009
Page Two

We also enclose for your information resolutions of the City of Henderson and the Utility Commission of the City of Henderson authorizing execution of these documents and other documents previously filed with the Commission.

Where a document provided with this letter is a current draft of a document previously filed with the Commission, and unless otherwise indicated above, the draft filed with this letter is blacklined against the last draft filed. In the case of the indenture and the RUS Loan Agreement, which are large documents, we are providing a list of most changes to facilitate Commission staff's review of the documents.

Big Rivers believes and represents that none of these documents requires Commission approval or re-approval. Please contact me if you have any questions regarding this filing. I certify that I have today served a copy of this cover letter and attachments on each person shown on the attached service list.

Sincerely yours,

A handwritten signature in black ink that reads "James M. Miller". The signature is written in a cursive style with a prominent initial "J".

James M. Miller

Enclosures

c: Mr. Mark Bailey
Mr. David Spainhoward
Service List

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Designated Representative/Alternate Designated
Representative Appointment Agreement**

**DESIGNATED REPRESENTATIVE/ALTERNATE DESIGNATED REPRESENTATIVE
APPOINTMENT AGREEMENT**

This Designated Representative/Alternative Designated Representative Appointment Agreement (this "Agreement") is made and entered into on this ___ day of _____, 2009, by and between the City of Henderson Utility Commission, 100 Fifth Street, Henderson, Kentucky 42420 (the "Commission") and City of Henderson, Kentucky, City Hall, P.O. Box 176, Henderson, Kentucky 42420 (the Commission and the City of Henderson being referred to collectively as the ("Owner"); Big Rivers Electric Corporation, a Kentucky rural electric cooperative ("Operator"); Steve Noland, 201 Third Street; Post Office Box 24; Henderson, Kentucky 42419 ("Noland") and Tom Shaw, 201 Third Street; Post Office Box 24; Henderson, Kentucky 42419 ("Shaw").

WHEREAS, Owner owns an electric generating station known as Henderson Station Two, Units 1 and 2 (collectively, the "Source"); and

WHEREAS, the City of Henderson, Kentucky, the Commission, Operator, Western Kentucky Energy Corp., and LG&E Marketing, Inc. entered into a Second Amendatory Agreement, dated as of [_____], 2009 (the "Second Amendatory Agreement") amending the Station Two Agreement, dated as of July 15, 1998, among the City of Henderson, Kentucky the Commission, Operator, WKE Station Two Inc., LG&E Energy Marketing, Inc., and Western Kentucky Leasing Corp. (the "Station Two Agreement") to provide for the expiration of the Station Two Agreement, which will return the operational control of the Source to Operator currently with the execution of this Agreement (the "Unwind Closing Date"); and

WHEREAS, following the Unwind Closing Date, the Operator will operate the Source

pursuant to certain leasehold operating agreements, including multiple Agreements dated August 1, 1970, as amended (the "Operating Agreements"); and

WHEREAS, the Source is subject to the requirements of the NOx Budget Trading Program ("NOx Budget Trading Program"), the Clean Air Interstate Rule SO2 and NOx Trading Program ("CAIR Trading Program"), and the Acid Rain Program of the federal Clean Air Act, as amended ("Acid Rain Program") (collectively referred to as "Air Programs"); and

WHEREAS, in order to comply with the requirements of the Air Programs regarding selection of a "Designated Representative" and "Alternate Designated Representative" and a "NOx Authorized Account Representative" and "Alternate NOx Authorized Account Representative" for the Source, Owner, Operator, Noland, and Shaw have made this Agreement.

NOW, THEREFORE, in consideration of the foregoing, the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to provide clear representations upon which the parties may rely, Owner, Operator, Noland, and Shaw agree as follows:

1. Appointment of Designated Representative and Alternate Designated Representative. Effective on the Unwind Closing Date at the time the expiration of the term of the Station Two Agreement in accordance with the Second Amendatory Agreement shall occur, Noland is hereby appointed the Designated Representative and Shaw is hereby appointed the Alternate Designated Representative of Owner and Operator for the Source for purposes of the CAIR Trading Program, and the Acid Rain Program. Currently with the appointments in the preceding sentence, the Designated Representative Agreement dated September 24, 2007 among the City of Henderson, the Commission, Operator, Western Kentucky Energy Corp., Gregory

Black and Ralph Bowling is being terminated in accordance with the Second Amendatory Agreement, and the appointments of Gregory Black and Ralph Bowling as Designated Representative and Alternate Designated Representative, respectively, terminated. In addition, in conjunction with their duties as Designated Representative and Alternate Designated Representative, Noland is hereby appointed as the NOx Authorized Account Representative and Shaw is hereby appointed as the Alternate NOx Authorized Account Representative for the Source for purposes of the NOx Budget Trading Program. As used hereafter in this Agreement, the terms "Designated Representative" and "Alternate Designated Representative" shall also encompass the NOx Authorized Account Representative and Alternate NOx Authorized Account Representative. In accordance with the provisions of the Air Programs, such individuals are authorized by Owner and Operator to represent and legally bind Owner and Operator in matters relating to the Air Programs, including the holding, transfer and/or disposition of emission allowances allocated by the United States Environmental Protection Agency to the Source, and the submission of and compliance with permits, permit applications, and compliance plans for the Source.

2. Authority and Duties of Designated Representative/Alternate Designated Representative. Owner and Operator agree that the Designated Representative shall have all necessary authority, cooperation and resources to carry out his duties and responsibilities under the Air Programs on behalf of Owner and Operator. Owner and Operator agree that the Alternate Designated Representative may act on behalf of the Designated Representative from time to time but only with respect to those matters specifically delegated to the Alternate Designated Representative by the Designated Representative. The Designated Representative may designate

agents to carry out specific duties and responsibilities under the Air Program in accordance with the procedures adopted by the U.S. EPA provided that he obtains the prior written approval of Owner and Operator. Owner and Operator recognize and agree that they will be legally bound by the actions, inactions, or submissions of Noland and Shaw relating to their capacity as the Designated Representative and Alternate Designated Representative, respectively, of Owner and Operator, and that they will be bound by any administrative or court order regarding Air Programs matters issued to the Designated Representative and/or the Alternate Designated Representative. The Designated Representative or Alternate Designated Representative, as the case may be, shall obtain the consent of Owner and Operator before exercising his authority if the exercise of such authority could have a material financial or operational impact on Owner or Operator, or both. Operator shall designate a representative from whom the Designated Representative and Alternate Designated Representative may obtain approval for the exercise of such authority. Noland and Shaw agree to fully and faithfully perform their duties as Designated Representative and Alternate Designated Representative, respectively, in accordance with the Air Programs, the terms of this Agreement and all other applicable laws, rules and regulations.

3. Indemnification by Operator of Designated Representative and Alternate Designated Representative. In light of the potential personal liability to which the Designated Representative and Alternate Designated Representative may be exposed by accepting appointments as Designated Representative and Alternate Designated Representative for the Source:

a. except as provided in subparagraph (b) of this paragraph, Operator agrees to indemnify and hold the Designated Representative and Alternate Designated Representative

harmless from liability for any claims, damages, fines, penalties, reasonable expenses and reasonable attorneys fees (collectively, "Damages"), even though caused or contributed to by his own negligence, incurred by him because he is or was the Designated Representative or the Alternate Designated Representative of Owner and Operator under this Agreement;

b. Neither the Designated Representative nor Alternate Designated Representative shall be entitled to indemnity if:

(1) his action or failure to act giving rise to the indemnification claim or related Damages resulted in an improper personal benefit to him; or

(2) his action or failure to act giving rise to the indemnification claim or related Damages was intentional with knowledge of the implications of such action or failure to act; and

c. Operator shall advance the Designated Representative or Alternate Designated Representative expenses reimbursable under this paragraph if the Designated Representative or the Alternate Designated Representative:

(1) furnishes Operator a written affirmation of his good faith belief that he is entitled to indemnification under the standards established by this paragraph, and

(2) furnishes Operator a written undertaking, executed personally or on his behalf, to repay the advance if it is ultimately determined that he is not entitled to indemnification.

In the event any claim or action by the Designated Representative or Alternate Designated Representative against Operator for indemnification under this Paragraph 3, or the Damages relating thereto, result from or arise out of any action or failure to act by Owner or any

of its employees, agents or representatives where there was a duty to refrain from so acting, or to so act, whether individually or on behalf of Operator under applicable laws, rules or regulations or the provisions of this Agreement or the Operating Agreements, then Owner agrees to indemnify and hold harmless Operator from and against all Damages that Operator may incur by reason of that action or claim by the Designated Representative or Alternate Designated Representative, as applicable.

4. **Term.** This Agreement shall become effective as of the Unwind Closing Date at the time that the closing under the Station Two Termination Agreement shall occur, and shall remain in full force and effect as to each of Noland and Shaw until Noland is replaced as the Designated Representative and Shaw is replaced as the Alternate Designated Representative, respectively, in accordance with the provisions of the Air Programs, and this Agreement, provided, however, that the indemnity provisions of this Agreement shall survive any termination of this Agreement. Operator may, with Owner's approval, remove and replace Noland as Designated Representative and/or Shaw as Alternate Designated Representative at any time upon written notice to that person and Owner, and appointment of another person as Designated Representative and/or Alternate Designated Representative. Operator agrees that it will replace Noland as Designated Representative and/or Shaw as Alternate Designated Representative within thirty (30) days after receipt of written notice from either individual that he desires to resign his position (which he may do at any time, in his discretion).

5. **Notice.** All notices and other communications to each party under this Agreement shall be in writing and shall be sent by first-class U.S. Mail, postage prepaid, or by facsimile to the following addresses or to such other address as the party entitled to notice shall have

identified in writing:

Addressed to:

City of Henderson Utility Commission
100 Fifth Street
Henderson, Kentucky 42420
Attn: General Manager

City of Henderson, Kentucky
City Hall
P.O. Box 176
Henderson, Kentucky 42420
Attn: Joseph E. Ternes, Jr., City Attorney

Addressed to:

Big Rivers Electric Corp
201 Third Street
Post Office Box 24
Henderson, Kentucky 42419
Attn: Mark Bailey

With a copy to:

Sullivan Mountjoy Stainback & Miller, P.S.C.
100 Ann Street
Post Office Box 727
Owensboro, Kentucky 42302-0727
Attn: James M. Miller, Esq.

Addressed to:

Steve Noland
Big Rivers Electric Corp
201 Third Street
Post Office Box 24
Henderson, Kentucky 42419

Addressed to:

Tom Shaw

Big Rivers Electric Corp
201 Third Street
Post Office Box 24
Henderson, Kentucky 42419

6. **Severability.** The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of the remaining provisions.

7. **Survival.** This Agreement shall be binding upon the parties hereto, and their respective heirs, successor, assigns and personal representatives.

8. **Authority.** Owner and Operator each represent that this Agreement has been executed by their respective authorized representatives.

9. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement.

CITY OF HENDERSON UTILITY COMMISSION

By: William L. Smith

Print Name: William L. Smith

Title: Chairman

CITY OF HENDERSON

By: Thomas E. Davis

Print Name: Thomas E. Davis

Title: Mayor

BIG RIVERS ELECTRIC CORPORATION

By: _____

Print Name: _____

Title: _____

STEVE NOLAND

TOM SHAW

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

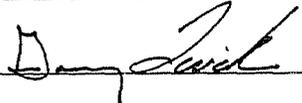
Informational Filing of June 24, 2009

**Memorandum of Understanding – Allocation of
General & Administrative Expenses**

MEMORANDUM OF UNDERSTANDING

Big Rivers and Henderson Municipal Power and Light mutually agree to amend the WKE/HMP&L 2009-2010 Henderson Station Two Budget no later than 90 days after the Unwind Transaction closing, to be effective as of the first day of the month following the closing, to allocate their General and Administrative expenses to the Henderson Station Two Budget as set forth in the new General and Administrative Allocation Agreement between the parties.

Henderson Municipal Power & Light

BY: 

DATE: June 23, 2009

Big Rivers Electric Corporation

BY: _____

DATE: _____, 2009

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Supplementary Agreement on SO₂ Emissions
Allowances**

Supplementary Agreement on SO₂ Emission Allowances

This Agreement is to provide for the distribution of Sulfur Dioxide (SO₂) Emission Allowances to Henderson Municipal Power and Light (HMP&L), owner of the HMP&L Station Two, Units 1 & 2; and Big Rivers Electric Corporation (BREC), operator of HMP&L Station Two, Units 1 & 2.

The Clean Air Act Amendments of 1970 established a market-based system to encourage the reduction of emissions of SO₂. As part of this system the Environmental Protection Agency provides an initial annual allocation of allowances to electric utility units that are affected under Phase I and Phase II of the program. During the annual reconciliation process, allowances are surrendered to offset emissions that occurred during the previous year. Allowances that are unused may be banked for future use, transferred to another unit account, or sold.

HMP&L as owner, and BREC as operator, have agreed with each other to certain conditions contained within documents such as the 1970 Power Sales Contract, as amended, the 1970 Power Plant Construction and Operation Agreement, as amended, and the 1970 Joint Facilities Agreement, as amended. One of these conditions includes providing a percentage of the unit generating capacity to HMP&L, for use in meeting its needs, while BREC receives the remaining unit capacity for its needs. This percent of unit capacity shares may change each year.

HMP&L Station Two has received SO₂ Emission Allowance allocations for each of its units. Although the Operating Agreement includes provisions which provide for the sale of unused allowances and the distribution of the proceeds to the parties based upon the percent of the unit capacity for that year, the parties agree that an additional provision for the direct distribution of the unused allowances should be available as an alternative.

Therefore, this Agreement provides:

- HMP&L Station Two, Units 1 & 2 receive an annual SO₂ Emission Allowance allocation from the Environmental Protection Agency.
- These allowances shall be utilized by the Designated Representative to offset the emissions from each unit during the Annual Reconciliation.
- Following the Annual Reconciliation the Designated Representative shall distribute the unused allowances for that year to the Owner's and Operator's allowance accounts in accordance with the percent of unit capacity taken for that year.



Gary Quick General Manager
Henderson Municipal Power & Light

Big Rivers Electric Corporation

Date: 6/23/09

Date: _____

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Memorandum of Understanding – Reliability Standards
Compliance**

MEMORANDUM OF UNDERSTANDING

Subsequent to the Unwind Transaction, Big Rivers Electric Corporation will continue to provide and be responsible for compliance with all TOP, GOP, and BA Reliability Standard functions related to Henderson Municipal Power and Light as those functions were provided by Big Rivers Electric Corporation, Western Kentucky Energy Corporation, and LG&E Energy Marketing, Inc. prior to the Unwind Transaction.

Henderson Municipal Power & Light

Big Rivers Electric Corporation

BY: 

BY: _____

TITLE: General Manager

TITLE: _____

DATE: 6/23/09

DATE: _____

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Agreement for Assignment of Responsibility for
Complying with Reliability Standards**

AGREEMENT FOR ASSIGNMENT OF RESPONSIBILITY
FOR COMPLYING WITH RELIABILITY STANDARDS
BETWEEN
Henderson Municipal Power & Light
AND
Big Rivers Electric Corporation

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Exhibits

- Exhibit A Functions and/or Reliability Standards and Requirements for which BREC has Assumed Compliance Responsibility on Behalf of HMP&L
- Exhibit B Additional Parties for which Notice, Acceptance, and/or Approval of this Agreement is Required or Deemed Needed
- Exhibit C Allocation of Responsibilities and Duties for Complying with Applicable Reliability Standards

Appendix

- Appendix A Allocation of Responsibilities and Duties for Requirements within Applicable Reliability Standards

AGREEMENT FOR ASSIGNMENT OF RESPONSIBILITY
FOR COMPLYING WITH RELIABILITY STANDARDS

THIS AGREEMENT FOR ASSIGNMENT OF RESPONSIBILITY FOR COMPLYING WITH RELIABILITY STANDARDS (“Agreement”) is entered into this ____ day of _____, _____, by and between: (a) Henderson Municipal Power & Light (“HMP&L”), having its registered and principal executive office at 100 5th Street, Henderson, Kentucky, and (b) Big Rivers Electric Corporation (“BREC”), a Kentucky rural electric cooperative, having its registered and principal executive office at 201 Third Street, Henderson, Kentucky. HMP&L and BREC are hereinafter referred to as the “Parties.”

WITNESSETH

WHEREAS, HMP&L is engaged in substantial part in the generation, transmission, retail sale and distribution of electric power;

WHEREAS, BREC is engaged in substantial part in the generation, wholesale sale, and transmission of electric power;

WHEREAS, HMP&L is directly responsible for complying with Reliability Standards established, administered, and/or enforced by the Electric Reliability Organization (“ERO”) and/or SERC, the Regional Entity in HMP&L’s region (the “RE”), subject to the approval and/or oversight of the Federal Energy Regulatory Commission (“FERC”) pursuant to Section 215 of the Federal Power Act (“FPA”) as amended by Section 1211 of the Energy Policy Act of 2005; and

WHEREAS, HMP&L desires to assign to BREC, and BREC is willing to accept assignment of, responsibility for certain of HMP&L's compliance functions and responsibilities within various Reliability Standards on the terms specified herein;

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, the Parties hereby agree as follows:

1 Definitions

1.1 General

Except as defined below, terms and expressions used in this Agreement shall have the same meanings as those contained in the FPA and the Reliability Standards.

1.2 Specific Definitions and Exceptions

[None]

2 Term and Termination

2.1 Effective Date and Term

This Agreement shall be effective as of the later of (a) the date that the ERO and the RE accept BREC's assignment to comply with the Reliability Standards specified in Exhibit A (the "Applicable Reliability Standards") on behalf of HMP&L, and (b) the date that notification has been given to or approval or acceptance has been received from any other entities [such as the Big Rivers' Board of Directors, RUS, the Kentucky Public Service Commission, or FERC] as specified in Exhibit B, whose notification, acceptance, or approval is necessary or deemed needed for this Agreement to take effect.

2.2 Term

Once entered into, the term of this Agreement shall continue indefinitely until terminated

pursuant to 2.3.

2.3 Termination

Termination Option

Either Party may terminate this Agreement for any reason upon written notice to the other Party. Unless otherwise agreed to by the Parties, the Party seeking to terminate shall provide at least 90 days of notice to the other Party, except where such advance notice is not commercially reasonable, in which event the terminating Party shall provide as much notice as is reasonably possible.

Effectiveness of Termination

Termination shall be effective only when the ERO and/or the RE acknowledge, through their Compliance Registry (or through other means agreeable to HMP&L, BREC, and the ERO and/or RE) that BREC is no longer to perform compliance with any Reliability Standards on behalf of HMP&L. In addition, the terminating Party (or both Parties in the case of termination by mutual agreement) shall be responsible for providing any necessary notification to, and obtaining any required approval or acceptance, from other entities as may be required or deemed needed for such termination as specified in Exhibit B.

Survival of Obligations

Except as HMP&L and BREC may otherwise agree in writing, the obligations, duties, and powers specified in 3.1 and 3.2 shall survive termination of this Agreement for events occurring prior to termination.

Interim Compliance with Reliability Standards

From the time that notice of termination is given (or the Parties agree to terminate) through the time that the termination becomes effective under 2.3, the Parties shall continue to abide by the terms of this Agreement, including terms for HMP&L to reimburse and/or compensate BREC; provided, however, that if HMP&L refuses or fails to follow reasonable instructions given by BREC for compliance with the Applicable Reliability Standards, HMP&L shall, in addition to its other obligations under this Agreement, be required to reimburse, hold harmless, and indemnify BREC for all costs (including fines and other penalties) incurred by BREC in a commercially reasonable manner resulting from HMP&L's failure to follow BREC's reasonable instructions for complying with the Applicable Reliability Standards.

3 Duties and Obligations of the Parties

3.1 Basic Scope of Duties, Obligations, and Powers

3.1.1 BREC Obligations

Subject to the other terms of this Agreement, BREC shall (a) be responsible for HMP&L's compliance with certain functions and responsibilities in the Applicable Reliability Standards, (b) monitor and certify HMP&L's compliance with the Applicable Reliability Standards, (c) pay penalties, fines, or other costs imposed by the ERO, RE, or FERC arising from non-compliance on HMP&L's behalf with the Applicable Reliability Standards, subject to reimbursement, and (d) provide to HMP&L all documents relating to HMP&L's compliance with the Reliability Standards, as specified herein.

3.1.2 Authorization

HMP&L authorizes BREC to appear before the ERO, the RE, FERC, and reviewing or enforcing courts of competent jurisdiction on behalf of and represent HMP&L with respect to HMP&L's compliance with the Reliability Standards, including with respect to, but not limited to, any inquiries, audits, investigations, penalties, sanctions, or remedial action directives.

3.1.3 HMP&L Obligations

HMP&L shall follow BREC's reasonable instructions for complying with the applicable Reliability Standards and shall otherwise cooperate with and assist BREC in matters pertaining to compliance with the Applicable Reliability Standards. HMP&L's duty to cooperate with and assist BREC in BREC's performance of BREC's obligations under this Agreement shall include, without limitation, the obligations to (a) exchange information related to compliance with the Applicable Reliability Standards, and (b) to provide books, records, and other information as to HMP&L's actions and inactions for purposes of responding to any inquiries, audits, investigations, enforcement actions, or claims from the ERO, the RE, the FERC and/or other entities relating to compliance with the Applicable Reliability Standards.

3.1.4 Method of Compliance with Applicable Reliability Standards

Exhibit C reflects the agreement between BREC and HMP&L as to the allocation of responsibilities and duties for achieving compliance with the requirements of the Applicable Reliability Standards as to whether those responsibilities and duties are performed more efficiently or effectively by BREC or HMP&L or some combination thereof. If the ERO, the RE, and/or FERC require that additional or specific actions be

taken to achieve compliance with, or in response to a violation of, one or more Applicable Reliability Standards, BREC and HMP&L shall: (a) agree on how Exhibit C is to be amended; (b) agree that HMP&L shall be exclusively responsible for compliance with the one or more Applicable Reliability Standards; (c) agree on any appropriate changes in BREC's compensation under this Agreement associated with (a) or (b); and/or (d) initiate termination of this Agreement.

3.2 BREC Cost Recovery from HMP&L

3.2.1 General Cost Recovery

For those compliance responsibilities not related to Henderson Station Two Generating Plant Reliability Standards, BREC shall be entitled to recover from HMP&L, and HMP&L shall pay to BREC, for the costs incurred by BREC in fulfilling its obligations under this Agreement on a time and materials/expense basis. BREC shall maintain records of the time and materials/expense incurred in performing under this Agreement. Time spent by BREC personnel in fulfilling BREC's obligations under this Agreement shall be billed at the actual labor costs plus the applicable rate for payroll overheads (calculated as a percentage for hours worked) plus materials/expenses billed on a pass-through basis. In addition, BREC shall be entitled to a general overhead adder applicable to such work, currently equal to 10% of all costs. BREC shall bill HMP&L monthly with invoices showing the amount of time and materials/expense incurred, and records of the amount of time and materials/expense incurred shall be made available for HMP&L's inspection. HMP&L's payment shall be due within thirty (30) calendar days of receipt of the invoice. BREC shall exercise reasonable care in incurring time and materials/expense,

and BREC shall not be entitled to recovery for time and materials/expense beyond that reasonably needed to fulfill its obligations under this Agreement. Unless this Agreement is terminated with at least ninety days of advance written notice to BREC, BREC shall also be entitled to recover from HMP&L any verified costs, such as personnel, that it shall have reasonably incurred as of the time that BREC receives written notice of termination in order to have the capability to continue performing under this Agreement if the Agreement were not being terminated. BREC shall be required to take commercially reasonable actions to mitigate such costs and shall not be entitled to recover any costs for which it can reasonably find an alternate use, such as using personnel for some other purpose. BREC shall not be entitled to recover any such costs allocable to a period beyond ninety days from the date that written notice of termination is given.

Notwithstanding the provisions of Section 3.2.1 hereof, the costs incurred by BREC in fulfilling its obligations under this Agreement with respect to the Henderson Station Two Generating Plant, as that term is defined in Section 2.2 of the Power Plant Construction and Operation Agreement, as amended, shall be billed and paid for as provided in SECTION 16 – BILLING AND PAYMENTS of the Power Plant Construction and Operation Agreement, as amended.

3.2.2 Recovery of Fines and Penalties

BREC shall also be entitled to recover from HMP&L any penalties, fines, or claims (whether imposed by the ERO, the RE, or FERC) or other related costs, including costs for BREC to defend itself or HMP&L, resulting or arising from possible, alleged, or

actual non-compliance with the Applicable Reliability Standards. Notwithstanding the prior sentence, BREC shall not be entitled to recover such amounts to the extent they result solely from intentional wrongdoing or gross negligence of BREC without any contributory involvement, action, or inaction by HMP&L. Any penalties, fines or claims (whether imposed by the ERO, the RE, or FERC) or other related costs which BREC is entitled to recover from HMP&L, and which relate to the Henderson Station Two Generating Plant, shall be billed and paid in accordance with the provisions of SECTION 16 of the Power Plant Construction and Operation Agreement, as amended.

3.3 New or Modified Reliability Standards and Updating of Exhibit B

BREC shall undertake commercially reasonable efforts to stay aware of and shall inform HMP&L in writing of any new or modified Reliability Standards that may be established by the ERO and/or RE that would be directly applicable to HMP&L in the absence of this Agreement. In addition, if HMP&L should become aware of new or modified Reliability Standards that may be established by the ERO and/or RE that would be directly applicable to HMP&L in the absence of this Agreement, HMP&L shall inform BREC of such Reliability Standards. The Parties shall discuss in good faith modifying Exhibit A to include such new or modified Reliability Standards of which they become aware and also to remove any Reliability Standards that are eliminated or cease to have potential applicability to HMP&L and any appropriate associated changes to BREC's compensation under this Agreement and Exhibit C. The Parties shall also act in good faith to update Exhibit B to keep it current.

3.4 HMP&L Option to Assume Direct Responsibility for Compliance

HMP&L shall have the option to assume responsibility for its direct compliance (as opposed to compliance through BREC) with some and/or all of the Reliability Standards that may be applicable to HMP&L, effective upon appropriate registration with the ERO and the RE and appropriate notification, approval, and/or acceptance of BREC and applicable entities as specified in Exhibit B, and, if applicable, appropriate revision of Exhibits A and C and BREC's compensation under this Agreement and/or termination of this Agreement.

3.5 Potential Joint Compliance with Applicable Reliability Standards by BREC and HMP&L

Subject to the acceptance of the ERO and the RE to be reflected in the Compliance Registry, BREC and HMP&L may each register to be responsible for compliance with one or more of the Applicable Reliability Standards, subject to having the ERO, the RE, or FERC determine whether BREC, HMP&L, or both is or are responsible for any non-compliance with the Applicable Reliability Standards under this Agreement.

4 Representations and Covenants

Each Party represents and covenants to the other Party that it is and shall remain during the term of this Agreement validly existing and in good standing pursuant to all applicable laws relevant to this Agreement, that it has undertaken all actions required to enter into this Agreement, that it is subject to no restrictions that prevents it from entering into and performing under and pursuant to this Agreement, and that it will use commercially reasonable efforts to remedy any future matters that might otherwise restrict it from performing under and pursuant to this Agreement in the future.

5 No Rights Created for the Benefit of Third Party Beneficiaries

Except as otherwise expressly provided herein, nothing in this Agreement shall be construed or deemed to confer any right or benefit on, or create any duty to, or standard of care with reference to, any third party.

6 Indemnification

6.1 Liability Between the Parties

The Parties' duties and standard of care with respect to each other, and the benefits and rights conferred on each other, shall be no greater than as explicitly stated herein.

Neither Party, its directors, officers, employees, or agents, shall be liable to the other Party for any loss, damage, claim, cost, charge, or expense, whether direct, indirect, or consequential, or whether arising in tort, contract or other theory of law or equity, arising from the Party's performance or nonperformance under this Agreement, except as may be otherwise specified herein.

6.2 No Liability for Electric Disturbances and Interruptions

Neither Party shall be liable under this Agreement to the other Party for any claim, demand, liability, loss, or damage, whether direct, indirect, or consequential, or whether arising in tort, contract or other theory of law or equity, incurred by the other Party or its customers, resulting from the separation of the Party's systems in an emergency or interruption. If a customer of a Party makes a claim or brings an action against the other Party for any death, injury, loss, or damage arising out of or in connection with electric service to such customer and caused by the other Party's performance or nonperformance under this Agreement, the first Party shall indemnify and hold harmless the other Party, its directors, officers, and employees from and against any liability for such death, injury,

loss, or damage.

7 Miscellaneous Matters

7.1 Assignment

Neither Party to this Agreement may assign its obligations under this Agreement without the other Party's prior written consent, which consent may be withheld in the other Party's sole discretion. No assignment of this Agreement shall relieve the assigning Party from any obligation or liability under this Agreement arising or accruing prior to the date of assignment.

7.2 RUS Assignment

Consent shall not be required for any assignment by a Party of any and all of its rights hereunder to the United States Rural Utilities Service ("RUS") (and any other mortgagees sharing security with the RUS) as security under the Party's RUS mortgage, or for any subsequent assignment by the RUS in exercise of its rights under the RUS mortgage; provided, however, registration with or notification of the ERO and/or the RE, and other parties identified in Exhibit B may still be required for such assignment to be effective.

7.3 Notices

Any notice, demand, or request which may be given to or made upon either Party regarding this Agreement shall be made in writing and shall be deemed properly served, given, or made: (a) upon delivery if delivered in person, (b) five (5) days after deposit in the mail if sent by first class United States mail, postage prepaid, (c) upon receipt of confirmation by return facsimile if sent by facsimile, or (d) upon delivery if delivered by prepaid commercial courier service. The initial contacts for the Parties are the executive

offices specified in the first clause of this Agreement. A Party may update the information relating to its address as that information changes by providing notice to the other Party pursuant to this provision, and such changes shall not constitute an amendment to this Agreement.

7.4 Waivers

Any waiver at any time by either Party of its rights with respect to any default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not constitute or be deemed a waiver with respect to any subsequent default or matter arising in connection with this Agreement. Any delay short of the statutory period of limitations in asserting or enforcing any right under this Agreement shall not constitute or be deemed a waiver of such right.

7.5 Governing Law and Forum

This Agreement shall be deemed to be a contract made under and for all purposes shall be governed by and construed in accordance with the laws of the state of Kentucky where BREC and HMP&L have their principal place of business, except to the extent, if any, that this Agreement is governed by or preempted by federal law, including, if applicable, determinations relating to the construction of the Reliability Standards by the ERO, the RE, and/or FERC. The Parties irrevocably consent that any legal action or proceeding arising under or relating to this Agreement shall be brought in a court having competent jurisdiction or, if subject to its jurisdiction or authority, the FERC. No provision of this Agreement shall be deemed to waive the right of any Party to protest, or contend in any manner, whether this Agreement, or any action or proceeding arising hereunder, is

subject to the jurisdiction of the FERC. No dispute arising under this Agreement shall be subject to trial before a jury, and the Parties hereby waive any rights to a jury trial for disputes arising under this Agreement that they might otherwise have.

7.6 Mediation/Arbitration

If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties shall, upon request of either Party, first try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall, upon request of either Party, be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

7.7 Consistency with Federal Laws and Regulations

Nothing in this Agreement shall compel either Party to violate federal statutes, regulations, or orders, including the Reliability Standards. If any provision of this Agreement is inconsistent with any obligation imposed on either Party by federal law, regulation, or order, or if either Party's performance of its obligations under any provision of this Agreement is prohibited by or would conflict with any federal law, regulation, or order, such provision shall be inapplicable to that Party to that extent. Neither Party shall incur any liability by failing to comply with any such provision; provided, however, that such Party shall use commercially reasonable efforts to comply

with this Agreement to the extent that applicable federal laws, regulations, and orders lawfully promulgated thereunder permit it to do so.

7.8 Severability

If any term, covenant, or condition of this Agreement or the application or effect of any such term, covenant, or condition is held invalid as to any person, entity, or circumstance, then such term, covenant, or condition shall remain in force and effect to the maximum extent permitted by law, and all other terms, covenants, and conditions of this Agreement and their application shall not be affected thereby, but shall remain in force and effect, unless a court or governmental agency of competent jurisdiction holds that such provisions are not separable from all other provisions of this Agreement.

7.9 Section Headings

Section headings provided in this Agreement are for ease of reference and are not meant to interpret the text in each Section.

7.10 Meaning of Herein and Hereunder

As used in this Agreement, "herein" and "hereunder" refer to this Agreement in its entirety, and not any individual article, section, paragraph, sentence, or other portion.

7.11 Entire Agreement

This Agreement constitutes the entire agreement between the Parties, and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter of this Agreement.

7.12 Amendments

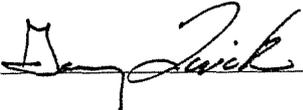
This Agreement and any Exhibits may be amended from time to time by the mutual agreement of the Parties in writing, subject to any required notifications, approvals, and amendments as referenced herein.

7.13 Counterparts

This Agreement may be executed in one or more counterparts at different times, each of which shall be regarded as an original and all of which, taken together, shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed on behalf of each by and through their authorized representatives as of the date first written above.

HMP&L

By: 
Name: Gary Quick
Title: General Manager
Date: 6/23/09

BREC

By: _____
Name: _____
Title: _____
Date: _____

Exhibit A

Functions and/or Reliability Standards and Requirements for which BREC has Assumed Compliance Responsibility on Behalf of HMP&L

All Generator Owner (GO) functions and requirements specific to the Station Two generating units contained in the "CIP", "FAC", "MOD", "PRC", and "VAR" Reliability Standards.

Load Serving Entity (LSE) functions and requirements specific to system studies load projections and normal operations data including current, next, and seven day load forecast contained in IRO-004 and TOP-002.

Load Serving Entity (LSE) functions and requirements specific to forecasting demands contained in MOD-017 and MOD-018.

Exhibit B

Additional Parties for which Notice, Acceptance, and/or Approval
of this Agreement is Required or Deemed Needed

Exhibit C

Allocation of Responsibilities and Duties for Complying with Applicable Reliability Standards

CIP-002 BREC will perform all functions and requirements relative to the Station Two generating units.

FAC Standards BREC will perform all functions and requirements of these standards relative to the Station Two generating units.

IRO Standards BREC shall perform the functions and requirements of Standard IRO-004 specific to system studies load projections (Requirement 4). HMP&L will provide necessary requested information to BREC to fulfill the requirement.

MOD Standards BREC and HMP&L will perform required generating unit testing specific to the Station Two units contained in these standards. BREC will perform all reporting functions related to this testing. BREC will perform all functions and requirements in these standards pertaining to load forecasting, load reporting, transmission planning, and resource planning. Currently, HMP&L does not have any Demand Side Management programs or Direct Control Load Management.

PRC Standards BREC shall perform all functions and requirements specific to Henderson Municipal Power and Light Station #2 Generating Units #1 & #2 and associated Station #2 switchyard components.

TOP Standards BREC shall perform the functions and requirements of Standard TOP-002 specific to current, next day, and 7 day load projections (Requirement 3). HMP&L will provide necessary requested information to BREC to fulfill the requirement.

VAR Standards BREC will perform all functions and requirements contained in these standards relative to the Station Two generating units.

The attached tables (Appendix A) are included here and provide a breakdown of the Allocation of Responsibilities and Duties on an individual requirement basis within the various Standards referenced here.

Appendix A

Standard Number	Requirement Number	Text of Requirement	GO	TO	LSE	Responsible Party
CIP-002-1	R1.	Critical Asset Identification Method — The Responsible Entity shall identify and document a risk-based assessment methodology to use to identify its Critical Assets.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.1.	The Responsible Entity shall maintain documentation describing its risk-based assessment methodology that includes procedures and evaluation criteria.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.	The risk-based assessment shall consider the following assets:	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.1.	Control centers and backup control centers performing the functions of the entities listed in the Applicability section of this standard.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.2.	Transmission substations that support the reliable operation of the Bulk Electric System.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-002-1	R1.2.3.	Generation resources that support the reliable operation of the Bulk Electric System.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.4.	Systems and facilities critical to system restoration, including blackstart generators and substations in the electrical path of transmission lines used for initial system restoration.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.5.	Systems and facilities critical to automatic load shedding under a common control system capable of shedding 300 MW or more.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.6.	Special Protection Systems that support the reliable operation of the Bulk Electric System.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R1.2.7.	Any additional assets that support the reliable operation of the Bulk Electric System that the Responsible Entity deems appropriate to include in its assessment.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R2.	Critical Asset Identification — The Responsible Entity shall develop a list of its identified Critical Assets determined through an annual application of the risk-based assessment methodology required in R1. The Responsible Entity shall review this list at least annually, and update it as necessary.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-002-1	R3.	Critical Cyber Asset Identification — Using the list of Critical Assets developed pursuant to Requirement R2, the Responsible Entity shall develop a list of associated Critical Cyber Assets essential to the operation of the Critical Asset. Examples at control centers and backup control centers include systems and facilities at master and remote sites that provide monitoring and control, automatic generation control, real-time power system modeling, and real-time interutility data exchange. The Responsible Entity shall review this list at least annually, and update it as necessary. For the purpose of Standard CIP-002, Critical Cyber Assets are further qualified to be those having at least one of the following characteristics:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R3.1.	The Cyber Asset uses a routable protocol to communicate outside the Electronic Security Perimeter; or,	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R3.2.	The Cyber Asset uses a routable protocol within a control center; or,	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R3.3.	The Cyber Asset is dial-up accessible.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-002-1	R4.	Annual Approval — A senior manager or delegate(s) shall approve annually the list of Critical Assets and the list of Critical Cyber Assets. Based on Requirements R1, R2, and R3 the Responsible Entity may determine that it has no Critical Assets or Critical Cyber Assets. The Responsible Entity shall keep a signed and dated record of the senior manager or delegate(s)'s approval of the list of Critical Assets and the list of Critical Cyber Assets (even if such lists are null.)	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R1.	Cyber Security Policy — The Responsible Entity shall document and implement a cyber security policy that represents management's commitment and ability to secure its Critical Cyber Assets. The Responsible Entity shall, at minimum, ensure the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-003-1	R1.1.	The cyber security policy addresses the requirements in Standards CIP-002 through CIP-009, including provision for emergency situations.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R1.2.	The cyber security policy is readily available to all personnel who have access to, or are responsible for, Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R1.3.	Annual review and approval of the cyber security policy by the senior manager assigned pursuant to R2.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R2.	Leadership — The Responsible Entity shall assign a senior manager with overall responsibility for leading and managing the entity's implementation of, and adherence to, Standards CIP-002 through CIP-009	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R2.1.	The senior manager shall be identified by name, title, business phone, business address, and date of designation.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R2.2.	Changes to the senior manager must be documented within thirty calendar days of the effective date.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-003-1	R2.3.	The senior manager or delegate(s), shall authorize and document any exception from the requirements of the cyber security policy.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R3.	Exceptions — Instances where the Responsible Entity cannot conform to its cyber security policy must be documented as exceptions and authorized by the senior manager or delegate(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R3.1.	Exceptions to the Responsible Entity's cyber security policy must be documented within thirty days of being approved by the senior manager or delegate(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R3.2.	Documented exceptions to the cyber security policy must include an explanation as to why the exception is necessary and any compensating measures, or a statement accepting risk.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R3.3.	Authorized exceptions to the cyber security policy must be reviewed and approved annually by the senior manager or delegate(s) to ensure the exceptions are still required and valid. Such review and approval shall be documented.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R4.	Information Protection — The Responsible Entity shall implement and document a program to identify, classify, and protect information associated with Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-003-1	R4.1.	The Critical Cyber Asset information to be protected shall include, at a minimum and regardless of media type, operational procedures, lists as required in Standard CIP-002, network topology or similar diagrams, floor plans of computing centers that contain Critical Cyber Assets, equipment layouts of Critical Cyber Assets, disaster recovery plans, incident response plans, and security configuration information.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R4.2.	The Responsible Entity shall classify information to be protected under this program based on the sensitivity of the Critical Cyber Asset information.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R4.3.	The Responsible Entity shall, at least annually, assess adherence to its Critical Cyber Asset information protection program, document the assessment results, and implement an action plan to remediate deficiencies identified during the assessment.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R5.	Access Control — The Responsible Entity shall document and implement a program for managing access to protected Critical Cyber Asset information.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R5.1.	The Responsible Entity shall maintain a list of designated personnel who are responsible for authorizing logical or physical access to protected information.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R5.1.1.	Personnel shall be identified by name, title, business phone and the information for which they are responsible for authorizing access.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-003-1	R5.1.2.	The list of personnel responsible for authorizing access to protected information shall be verified at least annually.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R5.2.	The Responsible Entity shall review at least annually the access privileges to protected information to confirm that access privileges are correct and that they correspond with the Responsible Entity's needs and appropriate personnel roles and responsibilities.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R5.3.	The Responsible Entity shall assess and document at least annually the processes for controlling access privileges to protected information.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-003-1	R6.	Change Control and Configuration Management — The Responsible Entity shall establish and document a process of change control and configuration management for adding, modifying, replacing, or removing Critical Cyber Asset hardware or software, and implement supporting configuration management activities to identify, control and document all entity or vendor-related changes to hardware and software components of Critical Cyber Assets pursuant to the change control process.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R1.	Awareness — The Responsible Entity shall establish, maintain, and document a security awareness program to ensure personnel having authorized cyber or authorized unescorted physical access receive on-going reinforcement in sound security practices. The program shall include security awareness reinforcement on at least a quarterly basis using mechanisms such as: Direct communications (e.g., emails, memos, computer based training, etc.); Indirect communications (e.g., posters, intranet, brochures, etc.); Management support and reinforcement (e.g., presentations, meetings, etc.).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.	Training — The Responsible Entity shall establish, maintain, and document an annual cyber security training program for personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, and review the program annually and update as necessary.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-004-1	R2.1.	This program will ensure that all personnel having such access to Critical Cyber Assets, including contractors and service vendors, are trained within ninety calendar days of such authorization.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.2.	Training shall cover the policies, access controls, and procedures as developed for the Critical Cyber Assets covered by CIP-004, and include, at a minimum, the following required items appropriate to personnel roles and responsibilities:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.2.1.	The proper use of Critical Cyber Assets;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.2.2.	Physical and electronic access controls to Critical Cyber Assets;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.2.3.	The proper handling of Critical Cyber Asset information; and,	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R2.2.4.	Action plans and procedures to recover or re-establish Critical Cyber Assets and access thereto following a Cyber Security Incident.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-004-1	R2.3.	The Responsible Entity shall maintain documentation that training is conducted at least annually, including the date the training was completed and attendance records.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R3.	Personnel Risk Assessment —The Responsible Entity shall have a documented personnel risk assessment program, in accordance with federal, state, provincial, and local laws, and subject to existing collective bargaining unit agreements, for personnel having authorized cyber or authorized unescorted physical access. A personnel risk assessment shall be conducted pursuant to that program within thirty days of such personnel being granted such access. Such program shall at a minimum include:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R3.1.	The Responsible Entity shall ensure that each assessment conducted include, at least, identity verification (e.g., Social Security Number verification in the U.S.) and sevenyear criminal check. The Responsible Entity may conduct more detailed reviews, as permitted by law and subject to existing collective bargaining unit agreements, depending upon the criticality of the position.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R3.2.	The Responsible Entity shall update each personnel risk assessment at least every seven years after the initial personnel risk assessment or for cause.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R3.3.	The Responsible Entity shall document the results of personnel risk assessments of its personnel having authorized cyber or authorized unescorted physical access to Critical Cyber Assets, and that personnel risk assessments of contractor and service vendor personnel with such access are conducted pursuant to Standard CIP-004.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R4.	Access — The Responsible Entity shall maintain list(s) of personnel with authorized cyber or authorized unescorted physical access to Critical Cyber Assets, including their specific electronic and physical access rights to Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-004-1	R4.1.	The Responsible Entity shall review the list(s) of its personnel who have such access to Critical Cyber Assets quarterly, and update the list(s) within seven calendar days of any change of personnel with such access to Critical Cyber Assets, or any change in the access rights of such personnel. The Responsible Entity shall ensure access list(s) for contractors and service vendors are properly maintained.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-004-1	R4.2.	The Responsible Entity shall revoke such access to Critical Cyber Assets within 24 hours for personnel terminated for cause and within seven calendar days for personnel who no longer require such access to Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.	Electronic Security Perimeter — The Responsible Entity shall ensure that every Critical Cyber Asset resides within an Electronic Security Perimeter. The Responsible Entity shall identify and document the Electronic Security Perimeter(s) and all access points to the perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.1.	Access points to the Electronic Security Perimeter(s) shall include any externally connected communication end point (for example, dial-up modems) terminating at any device within the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.2.	For a dial-up accessible Critical Cyber Asset that uses a non-routable protocol, the Responsible Entity shall define an Electronic Security Perimeter for that single access point at the dial-up device.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.3.	Communication links connecting discrete Electronic Security Perimeters shall not be considered part of the Electronic Security Perimeter. However, end points of these communication links within the Electronic Security Perimeter(s) shall be considered access points to the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-005-1	R1.4.	Any non-critical Cyber Asset within a defined Electronic Security Perimeter shall be identified and protected pursuant to the requirements of Standard CIP-005.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.5.	Cyber Assets used in the access control and monitoring of the Electronic Security Perimeter(s) shall be afforded the protective measures as a specified in Standard CIP-003, Standard CIP-004 Requirement R3, Standard CIP-005 Requirements R2 and R3, Standard CIP-006 Requirements R2 and R3, Standard CIP-007, Requirements R1 and R3 through R9, Standard CIP-008, and Standard CIP-009.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R1.6.	The Responsible Entity shall maintain documentation of Electronic Security Perimeter(s), all interconnected Critical and non-critical Cyber Assets within the Electronic Security Perimeter(s), all electronic access points to the Electronic Security Perimeter(s) and the Cyber Assets deployed for the access control and monitoring of these access points.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.	Electronic Access Controls — The Responsible Entity shall implement and document the organizational processes and technical and procedural mechanisms for control of electronic access at all electronic access points to the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.1.	These processes and mechanisms shall use an access control model that denies access by default, such that explicit access permissions must be specified.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.2.	At all access points to the Electronic Security Perimeter(s), the Responsible Entity shall enable only ports and services required for operations and for monitoring Cyber Assets within the Electronic Security Perimeter, and shall document, individually or by specified grouping, the configuration of those ports and services.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-005-1	R2.3.	The Responsible Entity shall maintain a procedure for securing dial-up access to the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.4.	Where external interactive access into the Electronic Security Perimeter has been enabled, the Responsible Entity shall implement strong procedural or technical controls at the access points to ensure authenticity of the accessing party, where technically feasible.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.5.	The required documentation shall, at least, identify and describe:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.5.1.	The processes for access request and authorization.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.5.2.	The authentication methods.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.5.3.	The review process for authorization rights, in accordance with Standard CIP-004 Requirement R4.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-005-1	R2.5.4.	The controls used to secure dial-up accessible connections.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R2.6.	Appropriate Use Banner — Where technically feasible, electronic access control devices shall display an appropriate use banner on the user screen upon all interactive access attempts. The Responsible Entity shall maintain a document identifying the content of the banner.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R3.	Monitoring Electronic Access — The Responsible Entity shall implement and document an electronic or manual process(es) for monitoring and logging access at access points to the Electronic Security Perimeter(s) twenty-four hours a day, seven days a week.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R3.1.	For dial-up accessible Critical Cyber Assets that use non-routable protocols, the Responsible Entity shall implement and document monitoring process(es) at each access point to the dial-up device, where technically feasible.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R3.2.	Where technically feasible, the security monitoring process(es) shall detect and alert for attempts at or actual unauthorized accesses. These alerts shall provide for appropriate notification to designated response personnel. Where alerting is not technically feasible, the Responsible Entity shall review or otherwise assess access logs for attempts at or actual unauthorized accesses at least every ninety calendar days.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R4.	Cyber Vulnerability Assessment — The Responsible Entity shall perform a cyber vulnerability assessment of the electronic access points to the Electronic Security Perimeter(s) at least annually. The vulnerability assessment shall include, at a minimum, the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-005-1	R4.1.	A document identifying the vulnerability assessment process;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R4.2.	A review to verify that only ports and services required for operations at these access points are enabled;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R4.3.	The discovery of all access points to the Electronic Security Perimeter;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R4.4.	A review of controls for default accounts, passwords, and network management community strings; and,	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R4.5.	Documentation of the results of the assessment, the action plan to remediate or mitigate vulnerabilities identified in the assessment, and the execution status of that action plan.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R5.	Documentation Review and Maintenance — The Responsible Entity shall review, update, and maintain all documentation to support compliance with the requirements of Standard CIP-005.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-005-1	R5.1.	The Responsible Entity shall ensure that all documentation required by Standard CIP-005 reflect current configurations and processes and shall review the documents and procedures referenced in Standard CIP-005 at least annually.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R5.2.	The Responsible Entity shall update the documentation to reflect the modification of the network or controls within ninety calendar days of the change.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-005-1	R5.3.	The Responsible Entity shall retain electronic access logs for at least ninety calendar days. Logs related to reportable incidents shall be kept in accordance with the requirements of Standard CIP-008.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.	Physical Security Plan — The Responsible Entity shall create and maintain a physical security plan, approved by a senior manager or delegate(s) that shall address, at a minimum, the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.1.	Processes to ensure and document that all Cyber Assets within an Electronic Security Perimeter also reside within an identified Physical Security Perimeter. Where a completely enclosed (“six-wall”) border cannot be established, the Responsible Entity shall deploy and document alternative measures to control physical access to the Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.2.	Processes to identify all access points through each Physical Security Perimeter and measures to control entry at those access points.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-006-1	R1.3.	Processes, tools, and procedures to monitor physical access to the perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.4.	Procedures for the appropriate use of physical access controls as described in Requirement R3 including visitor pass management, response to loss, and prohibition of inappropriate use of physical access controls.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.5.	Procedures for reviewing access authorization requests and revocation of access authorization, in accordance with CIP-004 Requirement R4.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.6.	Procedures for escorted access within the physical security perimeter of personnel not authorized for unescorted access.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.7.	Process for updating the physical security plan within ninety calendar days of any physical security system redesign or reconfiguration, including, but not limited to, addition or removal of access points through the physical security perimeter, physical access controls, monitoring controls, or logging controls.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R1.8.	Cyber Assets used in the access control and monitoring of the Physical Security Perimeter(s) shall be afforded the protective measures specified in Standard CIP-003, Standard CIP-004 Requirement R3, Standard CIP-005 Requirements R2 and R3, Standard CIP-006 Requirement R2 and R3, Standard CIP-007, Standard CIP-008 and Standard CIP-009.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-006-1	R1.9.	Process for ensuring that the physical security plan is reviewed at least annually.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R2.	Physical Access Controls — The Responsible Entity shall document and implement the operational and procedural controls to manage physical access at all access points to the Physical Security Perimeter(s) twenty-four hours a day, seven days a week. The Responsible Entity shall implement one or more of the following physical access methods:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R2.1.	Card Key: A means of electronic access where the access rights of the card holder are predefined in a computer database. Access rights may differ from one perimeter to another.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R2.2.	Special Locks: These include, but are not limited to, locks with “restricted key” systems, magnetic locks that can be operated remotely, and “man-trap” systems.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R2.3.	Security Personnel: Personnel responsible for controlling physical access who may reside on-site or at a monitoring station.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R2.4.	Other Authentication Devices: Biometric, keypad, token, or other equivalent devices that control physical access to the Critical Cyber Assets.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-006-1	R3.	Monitoring Physical Access — The Responsible Entity shall document and implement the technical and procedural controls for monitoring physical access at all access points to the Physical Security Perimeter(s) twenty-four hours a day, seven days a week. Unauthorized access attempts shall be reviewed immediately and handled in accordance with the procedures specified in Requirement CIP-008. One or more of the following monitoring methods shall be used:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R3.1.	Alarm Systems: Systems that alarm to indicate a door, gate or window has been opened without authorization. These alarms must provide for immediate notification to personnel responsible for response.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R3.2.	Human Observation of Access Points: Monitoring of physical access points by authorized personnel as specified in Requirement R2.3.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R4.	Logging Physical Access — Logging shall record sufficient information to uniquely identify individuals and the time of access twenty-four hours a day, seven days a week. The Responsible Entity shall implement and document the technical and procedural mechanisms for logging physical entry at all access points to the Physical Security Perimeter(s) using one or more of the following logging methods or their equivalent:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R4.1.	Computerized Logging: Electronic logs produced by the Responsible Entity's selected access control and monitoring method.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R4.2.	Video Recording: Electronic capture of video images of sufficient quality to determine identity.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-006-1	R4.3.	Manual Logging: A log book or sign-in sheet, or other record of physical access maintained by security or other personnel authorized to control and monitor physical access as specified in Requirement R2.3.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R5.	Access Log Retention — The Responsible Entity shall retain physical access logs for at least ninety calendar days. Logs related to reportable incidents shall be kept in accordance with the requirements of Standard CIP-008.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R6.	Maintenance and Testing — The Responsible Entity shall implement a maintenance and testing program to ensure that all physical security systems under Requirements R2, R3, and R4 function properly. The program must include, at a minimum, the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R6.1.	Testing and maintenance of all physical security mechanisms on a cycle no longer than three years.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R6.2.	Retention of testing and maintenance records for the cycle determined by the Responsible Entity in Requirement R6.1.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-006-1	R6.3.	Retention of outage records regarding access controls, logging, and monitoring for a minimum of one calendar year.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R1.	Test Procedures — The Responsible Entity shall ensure that new Cyber Assets and significant changes to existing Cyber Assets within the Electronic Security Perimeter do not adversely affect existing cyber security controls. For purposes of Standard CIP-007, a significant change shall, at a minimum, include implementation of security patches, cumulative service packs, vendor releases, and version upgrades of operating systems, applications, database platforms, or other third-party software or firmware.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R1.1.	The Responsible Entity shall create, implement, and maintain cyber security test procedures in a manner that minimizes adverse effects on the production system or its operation.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R1.2.	The Responsible Entity shall document that testing is performed in a manner that reflects the production environment.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R1.3.	The Responsible Entity shall document test results.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R2.	Ports and Services — The Responsible Entity shall establish and document a process to ensure that only those ports and services required for normal and emergency operations are enabled.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R2.1.	The Responsible Entity shall enable only those ports and services required for normal and emergency operations.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R2.2.	The Responsible Entity shall disable other ports and services, including those used for testing purposes, prior to production use of all Cyber Assets inside the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R2.3.	In the case where unused ports and services cannot be disabled due to technical limitations, the Responsible Entity shall document compensating measure(s) applied to mitigate risk exposure or an acceptance of risk.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R3.	Security Patch Management — The Responsible Entity, either separately or as a component of the documented configuration management process specified in CIP-003 Requirement R6, shall establish and document a security patch management program for tracking, evaluating, testing, and installing applicable cyber security software patches for all Cyber Assets within the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R3.1.	The Responsible Entity shall document the assessment of security patches and security upgrades for applicability within thirty calendar days of availability of the patches or upgrades.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R3.2.	The Responsible Entity shall document the implementation of security patches. In any case where the patch is not installed, the Responsible Entity shall document compensating measure(s) applied to mitigate risk exposure or an acceptance of risk.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R4.	Malicious Software Prevention — The Responsible Entity shall use anti-virus software and other malicious software (“malware”) prevention tools, where technically feasible, to detect, prevent, deter, and mitigate the introduction, exposure, and propagation of malware on all Cyber Assets within the Electronic Security Perimeter(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R4.1.	The Responsible Entity shall document and implement anti-virus and malware prevention tools. In the case where anti-virus software and malware prevention tools are not installed, the Responsible Entity shall document compensating measure(s) applied to mitigate risk exposure or an acceptance of risk.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R4.2.	The Responsible Entity shall document and implement a process for the update of anti-virus and malware prevention "signatures." The process must address testing and installing the signatures.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.	Account Management — The Responsible Entity shall establish, implement, and document technical and procedural controls that enforce access authentication of, and accountability for, all user activity, and that minimize the risk of unauthorized system access.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.1.	The Responsible Entity shall ensure that individual and shared system accounts and authorized access permissions are consistent with the concept of "need to know" with respect to work functions performed.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.1.1.	The Responsible Entity shall ensure that user accounts are implemented as approved by designated personnel. Refer to Standard CIP-003 Requirement R5.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.1.2.	The Responsible Entity shall establish methods, processes, and procedures that generate logs of sufficient detail to create historical audit trails of individual user account access activity for a minimum of ninety days.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R5.1.3.	The Responsible Entity shall review, at least annually, user accounts to verify access privileges are in accordance with Standard CIP-003 Requirement R5 and Standard CIP-004 Requirement R4.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.2.	The Responsible Entity shall implement a policy to minimize and manage the scope and acceptable use of administrator, shared, and other generic account privileges including factory default accounts.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.2.1.	The policy shall include the removal, disabling, or renaming of such accounts where possible. For such accounts that must remain enabled, passwords shall be changed prior to putting any system into service.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.2.2.	The Responsible Entity shall identify those individuals with access to shared accounts.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.2.3.	Where such accounts must be shared, the Responsible Entity shall have a policy for managing the use of such accounts that limits access to only those with authorization, an audit trail of the account use (automated or manual), and steps for securing the account in the event of personnel changes (for example, change in assignment or termination).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.3.	At a minimum, the Responsible Entity shall require and use passwords, subject to the following, as technically feasible:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R5.3.1.	Each password shall be a minimum of six characters.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.3.2.	Each password shall consist of a combination of alpha, numeric, and "special" characters.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R5.3.3.	Each password shall be changed at least annually, or more frequently based on risk.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R6.	Security Status Monitoring — The Responsible Entity shall ensure that all Cyber Assets within the Electronic Security Perimeter, as technically feasible, implement automated tools or organizational process controls to monitor system events that are related to cyber security.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R6.1.	The Responsible Entity shall implement and document the organizational processes and technical and procedural mechanisms for monitoring for security events on all Cyber Assets within the Electronic Security Perimeter.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R6.2.	The security monitoring controls shall issue automated or manual alerts for detected Cyber Security Incidents.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R6.3.	The Responsible Entity shall maintain logs of system events related to cyber security, where technically feasible, to support incident response as required in Standard CIP-008.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R6.4.	The Responsible Entity shall retain all logs specified in Requirement R6 for ninety calendar days.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R6.5.	The Responsible Entity shall review logs of system events related to cyber security and maintain records documenting review of logs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R7.	Disposal or Redeployment — The Responsible Entity shall establish formal methods, processes, and procedures for disposal or redeployment of Cyber Assets within the Electronic Security Perimeter(s) as identified and documented in Standard CIP-005.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R7.1.	Prior to the disposal of such assets, the Responsible Entity shall destroy or erase the data storage media to prevent unauthorized retrieval of sensitive cyber security or reliability data.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R7.2.	Prior to redeployment of such assets, the Responsible Entity shall, at a minimum, erase the data storage media to prevent unauthorized retrieval of sensitive cyber security or reliability data.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R7.3.	The Responsible Entity shall maintain records that such assets were disposed of or redeployed in accordance with documented procedures.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R8.	Cyber Vulnerability Assessment — The Responsible Entity shall perform a cyber vulnerability assessment of all Cyber Assets within the Electronic Security Perimeter at least annually. The vulnerability assessment shall include, at a minimum, the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R8.1.	A document identifying the vulnerability assessment process;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R8.2.	A review to verify that only ports and services required for operation of the Cyber Assets within the Electronic Security Perimeter are enabled;	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R8.3.	A review of controls for default accounts; and,	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-007-1	R8.4.	Documentation of the results of the assessment, the action plan to remediate or mitigate vulnerabilities identified in the assessment, and the execution status of that action plan.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-007-1	R9.	Documentation Review and Maintenance — The Responsible Entity shall review and update the documentation specified in Standard CIP-007 at least annually. Changes resulting from modifications to the systems or controls shall be documented within ninety calendar days of the change.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.	Cyber Security Incident Response Plan — The Responsible Entity shall develop and maintain a Cyber Security Incident response plan. The Cyber Security Incident Response plan shall address, at a minimum, the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.1.	Procedures to characterize and classify events as reportable Cyber Security Incidents.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.2.	Response actions, including roles and responsibilities of incident response teams, incident handling procedures, and communication plans.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.3.	Process for reporting Cyber Security Incidents to the Electricity Sector Information Sharing and Analysis Center (ES ISAC). The Responsible Entity must ensure that all reportable Cyber Security Incidents are reported to the ES ISAC either directly or through an intermediary.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.4.	Process for updating the Cyber Security Incident response plan within ninety calendar days of any changes.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-008-1	R1.5.	Process for ensuring that the Cyber Security Incident response plan is reviewed at least annually.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R1.6.	Process for ensuring the Cyber Security Incident response plan is tested at least annually. A test of the incident response plan can range from a paper drill, to a full operational exercise, to the response to an actual incident.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-008-1	R2.	Cyber Security Incident Documentation — The Responsible Entity shall keep relevant documentation related to Cyber Security Incidents reportable per Requirement R1.1 for three calendar years.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R1.	Recovery Plans — The Responsible Entity shall create and annually review recovery plan(s) for Critical Cyber Assets. The recovery plan(s) shall address at a minimum the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R1.1.	Specify the required actions in response to events or conditions of varying duration and severity that would activate the recovery plan(s).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R1.2.	Define the roles and responsibilities of responders.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

CIP-009-1	R2.	Exercises — The recovery plan(s) shall be exercised at least annually. An exercise of the recovery plan(s) can range from a paper drill, to a full operational exercise, to recovery from an actual incident.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R3.	Change Control — Recovery plan(s) shall be updated to reflect any changes or lessons learned as a result of an exercise or the recovery from an actual incident. Updates shall be communicated to personnel responsible for the activation and implementation of the recovery plan(s) within ninety calendar days of the change.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R4.	Backup and Restore — The recovery plan(s) shall include processes and procedures for the backup and storage of information required to successfully restore Critical Cyber Assets. For example, backups may include spare electronic components or equipment, written documentation of configuration settings, tape backup, etc.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
CIP-009-1	R5.	Testing Backup Media — Information essential to recovery that is stored on backup media shall be tested at least annually to ensure that the information is available. Testing can be completed off site.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
EOP-009-0	R2.	The Generator Owner or Generator Operator shall provide documentation of the test results of the startup and operation of each blackstart generating unit to the Regional Reliability Organizations and upon request to NERC.	GO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
FAC-002-0	R1.	The Generator Owner, Transmission Owner, Distribution Provider, and Load-Serving Entity seeking to integrate generation facilities, transmission facilities, and electricity end-user facilities shall each coordinate and cooperate on its assessments with its Transmission Planner and Planning Authority. The assessment shall include:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

FAC-002-0	R1.1.	Evaluation of the reliability impact of the new facilities and their connections on the interconnected transmission systems.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-002-0	R1.2.	Ensurance of compliance with NERC Reliability Standards and applicable Regional, subregional, Power Pool, and individual system planning criteria and facility connection requirements.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-002-0	R1.3.	Evidence that the parties involved in the assessment have coordinated and cooperated on the assessment of the reliability impacts of new facilities on the interconnected transmission systems. While these studies may be performed independently, the results shall be jointly evaluated and coordinated by the entities involved.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-002-0	R1.4.	Evidence that the assessment included steady-state, short-circuit, and dynamics studies as necessary to evaluate system performance in accordance with Reliability Standard TPL-001-0.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-002-0	R1.5.	Documentation that the assessment included study assumptions, system performance, alternatives considered, and jointly coordinated recommendations.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-002-0	R2.	The Planning Authority, Transmission Planner, Generator Owner, Transmission Owner, Load-Serving Entity, and Distribution Provider shall each retain its documentation (of its evaluation of the reliability impact of the new facilities and their connections on the interconnected transmission systems) for three years and shall provide the documentation to the Regional Reliability Organization(s) Regional Reliability Organization(s) and NERC on request (within 30 calendar days).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

FAC-008-1	R1.	The Transmission Owner and Generator Owner shall each document its current methodology used for developing Facility Ratings (Facility Ratings Methodology) of its solely and jointly owned Facilities. The methodology shall include all of the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.1.	A statement that a Facility Rating shall equal the most limiting applicable Equipment Rating of the individual equipment that comprises that Facility.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.2.	The method by which the Rating (of major BES equipment that comprises a Facility) is determined.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.2.1.	The scope of equipment addressed shall include, but not be limited to, generators, transmission conductors, transformers, relay protective devices, terminal equipment, and series and shunt compensation devices.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.2.2.	The scope of Ratings addressed shall include, as a minimum, both Normal and Emergency Ratings.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.3.	Consideration of the following:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

FAC-008-1	R1.3.1.	Ratings provided by equipment manufacturers.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.3.2.	Design criteria (e.g., including applicable references to industry Rating practices such as manufacturer's warranty, IEEE, ANSI or other standards).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.3.3.	Ambient conditions.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.3.4.	Operating limitations.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R1.3.5.	Other assumptions.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-008-1	R2.	The Transmission Owner and Generator Owner shall each make its Facility Ratings Methodology available for inspection and technical review by those Reliability Coordinators, Transmission Operators, Transmission Planners, and Planning Authorities that have responsibility for the area in which the associated Facilities are located, within 15 business days of receipt of a request.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

FAC-008-1	R3.	If a Reliability Coordinator, Transmission Operator, Transmission Planner, or Planning Authority provides written comments on its technical review of a Transmission Owner's or Generator Owner's Facility Ratings Methodology, the Transmission Owner or Generator Owner shall provide a written response to that commenting entity within 45 calendar days of receipt of those comments. The response shall indicate whether a change will be made to the Facility Ratings Methodology and, if no change will be made to that Facility Ratings Methodology, the reason why.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-009-1	R1.	The Transmission Owner and Generator Owner shall each establish Facility Ratings for its solely and jointly owned Facilities that are consistent with the associated Facility Ratings Methodology.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
FAC-009-1	R2.	The Transmission Owner and Generator Owner shall each provide Facility Ratings for its solely and jointly owned Facilities that are existing Facilities, new Facilities, modifications to existing Facilities and re-ratings of existing Facilities to its associated Reliability Coordinator(s), Planning Authority(ies), Transmission Planner(s), and Transmission Operator(s) as scheduled by such requesting entities.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
IRO-004-1	R4.	Each Transmission Operator, Balancing Authority, Transmission Owner, Generator Owner, Generator Operator, and Load-Serving Entity in the Reliability Coordinator Area shall provide information required for system studies, such as critical facility status, Load, generation, operating reserve projections, and known Interchange Transactions. This information shall be available by 1200 Central Standard Time for the Eastern Interconnection and 1200 Pacific Standard Time for the Western Interconnection.	GO	TO	LSE	BREC will be responsible for the Generator Owner, Transmission Owner, and Load Serving Entity functions.
MOD-010-0	R1.	The Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners (specified in the data requirements and reporting procedures of MOD-011-0_R1) shall provide appropriate equipment characteristics, system data, and existing and future Interchange Schedules in compliance with its respective Interconnection Regional steady-state modeling and simulation data requirements and reporting procedures as defined in Reliability Standard MOD-011-0_R 1.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
MOD-010-0	R2.	The Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners (specified in the data requirements and reporting procedures of MOD-011-0_R1) shall provide this steady-state modeling and simulation data to the Regional Reliability Organizations, NERC, and those entities specified within Reliability Standard MOD-011-0_R 1. If no schedule exists, then these entities shall provide the data on request (30 calendar days).	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

MOD-011-0	R1.	The Regional Reliability Organizations within an Interconnection, in conjunction with the Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners, shall develop comprehensive steady-state data requirements and reporting procedures needed to model and analyze the steady-state conditions for each of the NERC Interconnections: Eastern, Western, and ERCOT. Within an Interconnection, the Regional Reliability Organizations shall jointly coordinate the development of the data requirements and reporting procedures for that Interconnection. The Interconnection-wide requirements shall include the following steady-state data requirements:	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
MOD-012-0	R1.	The Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners (specified in the data requirements and reporting procedures of MOD-013-0_R1) shall provide appropriate equipment characteristics and system data in compliance with the respective Interconnection-wide Regional dynamics system modeling and simulation data requirements and reporting procedures as defined in Reliability Standard MOD-013-0_R1.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
MOD-012-0	R2.	The Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners (specified in the data requirements and reporting procedures of MOD-013-0_R4) shall provide dynamics system modeling and simulation data to its Regional Reliability Organization(s), NERC, and those entities specified within the applicable reporting procedures identified in Reliability Standard MOD-013-0_R 1. If no schedule exists, then these entities shall provide data on request (30 calendar days).	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
MOD-013-1	R1.	The Regional Reliability Organization, in coordination with its Transmission Owners, Transmission Planners, Generator Owners, and Resource Planners, shall develop comprehensive dynamics data requirements and reporting procedures needed to model and analyze the dynamic behavior or response of each of the NERC Interconnections: Eastern, Western, and ERCOT. Within an Interconnection, the Regional Reliability Organizations shall jointly coordinate on the development of the data requirements and reporting procedures for that Interconnection. Each set of Interconnection-wide dynamics data requirements shall include the following dynamics data requirements:	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
MOD-017-0	R1.3	Monthly peak hour forecast demands in MW and Net Energy for Load in GWh for the next two years.			LSE	BREC will be the responsible entity for forecasting demands for HMPL load.
MOD-017-0	R1.4.	Annual Peak hour forecast demands (summer and winter) in MW and annual NetEnergy for load in GWh for at least five years and up to ten years into the future, as requested.			LSE	BREC will be the responsible entity for forecasting demands for HMPL load.
MOD-018-0	R1.1.	Indicate whether the demand data of nonmember entities within an area or Regional Reliability Organization are included, and			LSE	BREC will be responsible for report of forecast demand data.
MOD-018-0	R1.2.	Address assumptions, methods, and the manner in which uncertainties are treated in the forecasts of aggregated peak demands and Net Energy for Load.			LSE	BREC will be responsible for report of forecast demand data.

MOD-018-0	R1.3.	Items (MOD-018-0_R1.1) and (MOD-018-0_R1.2) shall be addressed as described in the reporting procedures developed for Standard MOD-016-0_R1.			LSE	BREC will be responsible for report of forecast demand data.
MOD-018-0	R2.	The Load-Serving Entity, Planning Authority, Transmission Planner and Resource Planner shall each report data associated with Reliability Standard MOD-018-0_R1 to NERC, the Regional Reliability Organization, Load-Serving Entity, Planning Authority, and Resource Planner on request (within 30 calendar days).			LSE	BREC will be responsible for report of forecast demand data.
MOD-024-1	R3.	The Generator Owner shall follow its Regional Reliability Organization's procedures for verifying and reporting its gross and net Real Power generating capability per R1.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
MOD-025-1	R3.	The Generator Owner shall follow its Regional Reliability Organization's procedures for verifying and reporting its gross and net Reactive Power generating capability per R1.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
NUC-001-1	R1.	The Nuclear Plant Generator Operator shall provide the proposed NPIRs in writing to the applicable Transmission Entities and shall verify receipt	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R2.	The Nuclear Plant Generator Operator and the applicable Transmission Entities shall have in effect one or more Agreements ¹ that include mutually agreed to NPIRs and document how the Nuclear Plant Generator Operator and the applicable Transmission Entities shall address and implement these NPIRs.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R3.	Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall incorporate the NPIRs into their planning analyses of the electric system and shall communicate the results of these analyses to the Nuclear Plant Generator Operator.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R4.	Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R4.1.	Incorporate the NPIRs into their operating analyses of the electric system.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R4.2.	Operate the electric system to meet the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R4.3.	Inform the Nuclear Plant Generator Operator when the ability to assess the operation of the electric system affecting NPIRs is lost.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R6.	Per the Agreements developed in accordance with this standard, the applicable Transmission Entities and the Nuclear Plant Generator Operator shall coordinate outages and maintenance activities which affect the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R7.	Per the Agreements developed in accordance with this standard, the Nuclear Plant Generator Operator shall inform the applicable Transmission Entities of actual or proposed changes to nuclear plant design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R8.	Per the Agreements developed in accordance with this standard, the applicable Transmission Entities shall inform the Nuclear Plant Generator Operator of actual or proposed changes to electric system design, configuration, operations, limits, protection systems, or capabilities that may impact the ability of the electric system to meet the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.	The Nuclear Plant Generator Operator and the applicable Transmission Entities shall include, as a minimum, the following elements within the agreement(s) identified in R2:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.1.	Administrative elements:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.1.1.	Definitions of key terms used in the agreement.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.1.2.	Names of the responsible entities, organizational relationships, and responsibilities related to the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.1.3.	A requirement to review the agreement(s) at least every three years.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R9.1.4.	A dispute resolution mechanism.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.2.	Technical requirements and analysis:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.2.1.	Identification of parameters, limits, configurations, and operating scenarios included in the NPIRs and, as applicable, procedures for providing any specific data not provided within the agreement.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.2.2.	Identification of facilities, components, and configuration restrictions that are essential for meeting the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.2.3.	Types of planning and operational analyses performed specifically to support the NPIRs, including the frequency of studies and types of Contingencies and scenarios required.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.	Operations and maintenance coordination:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R9.3.1.	Designation of ownership of electrical facilities at the interface between the electric system and the nuclear plant and responsibilities for operational control coordination and maintenance of these facilities.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.2.	Identification of any maintenance requirements for equipment not owned or controlled by the Nuclear Plant Generator Operator that are necessary to meet the NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.3.	Coordination of testing, calibration and maintenance of on-site and off-site power supply systems and related components.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.4.	Provisions to address mitigating actions needed to avoid violating NPIRs and to address periods when responsible Transmission Entity loses the ability to assess the capability of the electric system to meet the NPIRs. These provisions shall include responsibility to notify the Nuclear Plant Generator Operator within a specified time frame.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.5.	Provision to consider nuclear plant coping times required by the NPLRs and their relation to the coordination of grid and nuclear plant restoration following a nuclear plant loss of Off-site Power.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.3.6.	Coordination of physical and cyber security protection of the Bulk Electric System at the nuclear plant interface to ensure each asset is covered under at least one entity's plan.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R9.3.7.	Coordination of the NPIRs with transmission system Special Protection Systems and underfrequency and undervoltage load shedding programs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.4.	Communications and training:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.4.1.	Provisions for communications between the Nuclear Plant Generator Operator and Transmission Entities, including communications protocols, notification time requirements, and definitions of terms.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.4.2.	Provisions for coordination during an off-normal or emergency event affecting the NPIRs, including the need to provide timely information explaining the event, an estimate of when the system will be returned to a normal state, and the actual time the system is returned to normal.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.4.3.	Provisions for coordinating investigations of causes of unplanned events affecting the NPIRs and developing solutions to minimize future risk of such events.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
NUC-001-1	R9.4.4.	Provisions for supplying information necessary to report to government agencies, as related to NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

NUC-001-1	R9.4.5.	Provisions for personnel training, as related to NPIRs.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-004-1	R2.	The Generator Owner shall analyze its generator Protection System Misoperations, and shall develop and implement a Corrective Action Plan to avoid future Misoperations of a similar nature according to the Regional Reliability Organization's procedures developed for PRC-003 R1.	GO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
PRC-004-1	R3.	The Transmission Owner, any Distribution Provider that owns a transmission Protection System, and the Generator Owner shall each provide to its Regional Reliability Organization, documentation of its Misoperations analyses and Corrective Action Plans according to the Regional Reliability Organization's procedures developed for PRC-003 R1.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-005-1	R1.	Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall have a Protection System maintenance and testing program for Protection Systems that affect the reliability of the BES. The program shall include:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-005-1	R1.1.	Maintenance and testing intervals and their basis.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-005-1	R1.2.	Summary of maintenance and testing procedures.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-005-1	R2.	Each Transmission Owner and any Distribution Provider that owns a transmission Protection System and each Generator Owner that owns a generation Protection System shall provide documentation of its Protection System maintenance and testing program and the implementation of that program to its Regional Reliability Organization on request (within 30 calendar days). The documentation of the program implementation shall include:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-005-1	R2.1.	Evidence Protection System devices were maintained and tested within the defined intervals.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-005-1	R2.2.	Date each Protection System device was last tested/maintained.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-015-0	R1.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall maintain a list of and provide data for existing and proposed SPSs as specified in Reliability Standard PRC-013-0_R 1.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-015-0	R2.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall have evidence it reviewed new or functionally modified SPSs in accordance with the Regional Reliability Organization's procedures as defined in Reliability Standard PRC-012-0_R1 prior to being placed in service.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-015-0	R3.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall provide documentation of SPS data and the results of studies that show compliance of new or functionally modified SPSs with NERC Reliability Standards and Regional Reliability Organization criteria to affected Regional Reliability Organizations and NERC on request (within 30 calendar days).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-016-0	R1.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall analyze its SPS operations and maintain a record of all misoperations in accordance with the Regional SPS review procedure specified in Reliability Standard PRC-012-0_R 1.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-016-0	R2.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall take corrective actions to avoid future misoperations.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-016-0	R3.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall provide documentation of the misoperation analyses and the corrective action plans to its Regional Reliability Organization and NERC on request (within 90 calendar days).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall have a system maintenance and testing program(s) in place. The program(s) shall include:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.1.	SPS identification shall include but is not limited to:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.1.1.	Relays.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-017-0	R1.1.2.	Instrument transformers.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.1.3.	Communications systems, where appropriate.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.1.4.	Batteries.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.2.	Documentation of maintenance and testing intervals and their basis.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.3.	Summary of testing procedure.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.4.	Schedule for system testing.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-017-0	R1.5.	Schedule for system maintenance.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R1.6.	Date last tested/maintained.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-017-0	R2.	The Transmission Owner, Generator Owner, and Distribution Provider that owns an SPS shall provide documentation of the program and its implementation to the appropriate Regional Reliability Organizations and NERC on request (within 30 calendar days).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R1.	Each Transmission Owner and Generator Owner required to install DMEs by its Regional Reliability Organization (reliability standard PRC-002 Requirements 1-3) shall have DMEs installed that meet the following requirements:	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R1.1.	Internal Clocks in DME devices shall be synchronized to within 2 milliseconds or less of Universal Coordinated Time scale (UTC)	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R1.2.	Recorded data from each Disturbance shall be retrievable for ten calendar days..	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-018-1	R2.	The Transmission Owner and Generator Owner shall each install DMEs in accordance with its Regional Reliability Organization's installation requirements (reliability standard PRC-002 Requirements 1 through 3).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.	The Transmission Owner and Generator Owner shall each maintain, and report to its Regional Reliability Organization on request, the following data on the DMEs installed to meet that region's installation requirements (reliability standard PRC-002 Requirements 1.1, 2.1 and 3.1):	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.1.	Type of DME (sequence of event recorder, fault recorder, or dynamic disturbance recorder).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.2.	Make and model of equipment.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.3.	Installation location.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.4.	Operational status.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-018-1	R3.5.	Date last tested.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.6.	Monitored elements, such as transmission circuit, bus section, etc.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.7.	Monitored devices, such as circuit breaker, disconnect status, alarms, etc.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R3.8.	Monitored electrical quantities, such as voltage, current, etc.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R4.	The Transmission Owner and Generator Owner shall each provide Disturbance data (recorded by DMEs) in accordance with its Regional Reliability Organization's requirements (reliability standard PRC-002 Requirement 4).	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R5.	The Transmission Owner and Generator Owner shall each archive all data recorded by DMEs for Regional Reliability Organization-identified events for at least three years.	GO	TO	BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.

PRC-018-1	R6.	Each Transmission Owner and Generator Owner that is required by its Regional Reliability Organization to have DMEs shall have a maintenance and testing program for those DMEs that includes:	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R6.1.	Maintenance and testing intervals and their basis.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
PRC-018-1	R6.2.	Summary of maintenance and testing procedures.	GO	TO		BREC will be the responsible entity for Generating Assets only at HMPL Station #2. HMPL will be the responsible entity for Transmission Assets only owned by HMPL.
TOP-002-2	R3.	Each Load-Serving Entity and Generator Operator shall coordinate (where confidentiality agreements allow) its current-day, next-day, and seasonal operations with its Host Balancing Authority and Transmission Service Provider. Each Balancing Authority and Transmission Service Provider shall coordinate its current-day, next-day, and seasonal operations with its Transmission Operator.			LSE	BREC will be responsible for the Load Serving Entity function.
VAR-002-1	R4.	The Generator Owner shall provide the following to its associated Transmission Operator and Transmission Planner within 30 calendar days of a request.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
VAR-002-1	R4.1.	For generator step-up transformers and auxiliary transformers with primary voltages equal to or greater than the generator terminal voltage:	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.

VAR-002-1	R4.1.1.	Tap settings.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
VAR-002-1	R4.1.2.	Available fixed tap ranges.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
VAR-002-1	R4.1.3.	Impedance data.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
VAR-002-1	R4.1.4.	The +/- voltage range with step-change in % for load-tap changing transformers.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.
VAR-002-1	R5.	After consultation with the Transmission Operator regarding necessary step-up transformer tap changes, the Generator Owner shall ensure that transformer tap positions are changed according to the specifications provided by the Transmission Operator, unless such action would violate safety, an equipment rating, a regulatory requirement, or a statutory requirement.	GO			BREC will be the responsible entity for Generating Assets only at HMPL Station #2.

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

Letter Agreement – Station Two Operating Procedures

LETTER AGREEMENT

_____, 2009

Big Rivers Electric Corporation
201 Third Street
Henderson, KY 42420

City of Henderson Utility Commission
d/b/a Henderson Municipal Power & Light
100 5th Street
Henderson, KY 42420

Gentlemen:

This is a Letter Agreement made and entered into by Big Rivers Electric Corporation (hereinafter referred to as "BREC") and City of Henderson Utility Commission, d/b/a Henderson Municipal Power & Light, (hereinafter referred to as "HMP&L") as an operating procedures agreement relating to the quality of fuels to be used by BREC and HMP&L in Units One and Two of Henderson Station Two, beginning at the date and time when the operation of Henderson's Station Two Power Plant reverts to BREC pursuant to Section 10.16 of the Station Two Agreement on the effective date of the proposed Second Amendatory Agreement among Big Rivers Electric Corporation, LG&E Energy Marketing Inc., Western Kentucky Energy Corp., WKE Corp., WKE Station Two Inc., City of Henderson, Kentucky, and City of Henderson Utility Commission, d/b/a Henderson Municipal Power & Light.

BREC and HMP&L mutually agree as follows:

1. BREC and HMP&L agree to burn only bituminous coal in Units One and Two of Station Two, unless otherwise agreed to in writing by both parties.
2. BREC and HMP&L agree to burn bituminous coal in Units One and Two of Station Two having a sulfur content not exceeding 3.6% sulfur, weighted monthly average, subject to such variances as the parties may otherwise mutually agree in writing from time to time, or as may otherwise be permitted by the following terms of this section.

Subsequent to the execution of this Letter Agreement, either party may submit a written request to the other party for the establishment of a bituminous coal fuel box for Station Two Unit One and Unit Two. In the event a request is made, each party will select an individual to represent them and to participate in the establishment of a fuel box. The two individuals selected by the parties shall, thereafter, mutually agree upon the selection of a third disinterested individual to work with them in establishing the fuel box. The two individuals shall select a firm experienced in fuel specifications, boiler design characteristics, and operations that has recognized

qualifications to design the fuel box. When the fuel box is established by the three individuals, the parties shall use those established standards for the bidding and purchase of bituminous coal fuel to be used at Station Two Unit One and Unit Two. The parties agree that costs associated with the establishment of the fuel box shall be divided equally between them. The parties further agree that internal costs to either Big Rivers or HMP&L shall be the responsibility of that party and will not be a part of the cost share described in the previous sentence. The parties agree to pursue the procedure described in this paragraph promptly, cooperatively, diligently, and in good faith.

3. BREC and HMP&L agree not to burn Pet Coke in Units One and Two of Station Two.

4. BREC and, to the extent permitted by law, HMP&L, further agree to take every precaution to keep this agreement confidential, recognizing that public disclosure of the information contained in this agreement could have an adverse, limiting effect on the bids received by BREC and HMP&L in their coal procurement process.

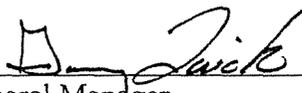
This agreement contains the entire agreement of the parties on the subject matter hereof, and may be altered or amended solely upon the written consent of both BREC and HMP&L. The invalidity of any one portion of this agreement shall not affect the validity of the remaining portions of the agreement.

ENTERED this ____ day of _____, 2009.

BIG RIVERS ELECTRIC CORPORATION

By: _____
Title: President and CEO

CITY OF HENDERSON UTILITY COMMISSION
d/b/a HENDERSON MUNICIPAL POWER &
LIGHT

By:  _____
Title: General Manager
GARY QUICK

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Amended and Consolidated Loan Contract between Big
Rivers and United States of America**

Informational Filing of June 24, 2009

Summary of changes to Amended and Consolidated Loan Contract since filing of October 9, 2009

The principal changes from the April 23, 2008 draft of the Amended and Consolidated Loan Contract between Big Rivers and the United States of America, the last draft filed with the Commission, are:

1. The definition of "Investment Grade" now contemplates possible ratings by Moody's, S&P and Fitch.
2. The representation in Article II (d) now includes the Wholesale Power Contracts and the Smelter Contracts.
3. The representation in Article II (g) now addresses Big Rivers' December 31, 2008 financials.
4. Section 3.5 and 3.6 have been deleted at the request of RUS.
5. The notice requirement in Section 4.9(a) has been expanded to include "events of default" under other agreements which could precipitate a Material Adverse Change.
6. The triggers for implementation of the Lock Box Arrangements now include Big Rivers' total current and accrued liabilities exceeding its total current and accrued assets.
7. Big Rivers' maintenance obligation has been expanded to include Prudent Utility Practices.
8. Failure of Big Rivers to implement a corrective plan for improve its credit rating, if required under Section 4.23(c), constitutes and Event of Default without RUS notice to Big Rivers.
9. RUS rejected Big Rivers' request to increase the threshold for complying with RUS's regulations for releases of capital assets under Section 5.3
10. The Section 8.1 procedure (deemed consent after notice and waiting period) was added to Big Rivers' covenant with request to rate increases and decreases in Section 5.8.

11. In Section 5.9(l)and (m) additional limitations on Big Rivers' ability to issue Additional Obligations under Indenture without RUS consent has been added.
12. Section 5.11 provides sales of emission allowances must be in compliance with RUS regulations.
13. Section 5.12 requires compliance with the Section 8.1 notice and waiting period procedure to sell renewable energy credits except in accordance with RUS regulations.
14. The Events of Default in Article VI (a) has been expanded to include representations and warranties in a filing pursuant to RUS regulations.
15. Exhibit A
A few changes were made in the form of Lock Box Agreement attached as Exhibit A in response to comments from Old National Bank, as Lock Box Bank.

ORRICK DRAFT

June 22, 2009

~~Orrick Draft~~

~~April 23, 2008~~

**AMENDED AND CONSOLIDATED
LOAN CONTRACT**

Dated as of ~~11, 2008~~ July 1, 2009

between

BIG RIVERS ELECTRIC CORPORATION

and

UNITED STATES OF AMERICA

RUS Project Designation:
Big Rivers

~~Schedules and~~ Exhibits

~~Schedule 1~~ — Wholesale Power Contracts

Exhibit A Lockbox Agreement

Exhibit B Equal Opportunity Contract Provisions

Exhibit C Description of Rating Agency Services

Exhibit D Wholesale Power Contracts

AMENDED AND CONSOLIDATED LOAN CONTRACT

THIS AMENDED AND CONSOLIDATED LOAN CONTRACT, dated as of ~~+~~ ~~+~~, ~~2008~~, , ~~2009~~, is between BIG RIVERS ELECTRIC CORPORATION (together with any successors and assigns, the "Borrower"), a cooperative corporation organized and existing under the laws of the Commonwealth of Kentucky, and the UNITED STATES OF AMERICA (the "Government"), acting by and through the Administrator (together with any person succeeding to the powers and rights of the Administrator with respect to this Agreement, the "Administrator") of the Rural Utilities Service (together with any agency succeeding to the powers and rights of the Rural Utilities Service with respect to this Agreement, the "RUS");

RECITALS

WHEREAS, the Borrower previously incurred, pursuant to the Act (as defined in Article I) and under the Existing Loan Contract (as defined below), certain indebtedness and other obligations to, or guaranteed by, the Government, acting by and through the Administrator of the RUS, which indebtedness and other obligations are evidenced by the RUS Notes (as defined in Article I); and

WHEREAS, in connection with the loans and other obligations evidenced by the RUS Notes, the Borrower and the Government, acting by and through the Administrator of the RUS, have entered into that certain New RUS Agreement, dated as of July 15, 1998, (the "Existing Loan Contract"); and

WHEREAS, to secure the indebtedness and other obligations evidenced by the RUS Notes and to secure certain other indebtedness, the Borrower entered into that certain Third Restated Mortgage and Security Agreement, dated as of August 1, ~~2001~~, 2001 (the "Mortgage"), by and among the Borrower, as mortgagor, and the Government, acting by and through the Administrator of the RUS; Ambac Assurance Corporation; Dexia Bank (as successor to Credit Suisse First Boston); U.S. Bank Trust National Association as trustee; National Rural Utilities Cooperative Finance Corporation; PBR-1 Statutory Trust; PBR-2 Statutory Trust; PBR-3 Statutory Trust; FBR-1 Statutory Trust; FBR-2 Statutory Trust; and Ambac Credit Products, LLC, as mortgagees, the ("RUS Mortgage"); and

WHEREAS, simultaneously herewith, ~~the Borrower and the Government, acting by and through the Administrator of the RUS, have replaced the RUS Mortgage with~~ Mortgage is being released and, pursuant to the Indenture (as defined in Article I), pursuant to which the Borrower has granted a security title to and a security interest in substantially all of its real and personal property to secure the RUS Notes and the certain other obligations secured under the RUS Mortgage as to which it remains liable Indenture, as more particularly set forth therein; and

WHEREAS, in connection with the release of the Mortgage and the substitution of the Indenture as a replacement for the RUS Mortgage, the Borrower and the Government intend to amend, restate and consolidate the Existing Loan Contract as herein set forth; and

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants hereinafter contained, the parties hereto amend and consolidate the Existing Loan Contract to read in its entirety, and agree and bind themselves, as follows:

ARTICLE I.

DEFINITIONS

Capitalized terms that are not defined herein shall have the meanings set forth in the Indenture. The terms defined herein include both the plural and the singular. Unless otherwise specifically provided, all accounting terms not otherwise defined herein shall have the meanings assigned to them, and all determinations and computations herein provided for shall be made, in accordance with Accounting Requirements.

“Accounting Requirements” shall mean the requirements of the system of accounts prescribed by the RUS.

“Act” shall mean the Rural Electrification Act of 1936, as amended.

“Agreement” shall mean this Amended and Consolidated Loan Contract, together with all schedules and exhibits hereto, and also all subsequent supplements or amendments hereto.

~~“ARVP Note” shall mean that certain Amended and Restated Promissory Note in the stated principal amount of \$265,000,000 executed by the Borrower and delivered to the Government on July 15, 1998.~~

“Business Day” shall mean any day that the RUS is open for business.

“Capital Assets” shall mean all tangible and intangible utility plant, ~~SO₂-allowances,~~ construction in progress, non-utility property, material supplies and equipment normally used in the Borrower’s system.

“Credit Rating” shall mean a rating assigned by a Rating Agency (i) to any long-term indebtedness (that is not subject to Credit Enhancement) (including, without limitation, indebtedness issued by any governmental authority with respect to which the Borrower is an obligor) and secured directly or indirectly under the Indenture or (ii) if a Rating Agency has not assigned a rating to indebtedness of the type described in clause (i) hereof, a “shadow rating” of the Borrower’s senior, secured long-term indebtedness (that is not subject to Credit Enhancement).

“Competitive Transition Charges” means amounts that the Company is authorized or permitted to collect, directly or indirectly, from the ultimate consumers of electric power and energy under state or federal statutes or regulations enacted or promulgated in connection with the opening of the electric markets to retail competition, whether or not such consumers are taking

energy supplied directly or indirectly by the Company. It is intended that this definition be broadly construed in order to take into consideration the changing nature of the electric utility industry resulting from the implementation of retail competition.

“Distributions” shall mean for the Borrower, in any calendar year, to declare or pay any dividends, or pay or determine to pay any patronage refunds, or retire any patronage capital or make any other Cash Distributions, to its members, stockholders or consumers; provided, however, that for the purposes of this Agreement a “Cash Distribution” shall be deemed to include any general cancellation or abatement of charges for electric energy or services furnished by the Borrower, including the rebate of an abatement of wholesale power costs previously incurred pursuant to an order of a state regulatory authority or a wholesale power cost adjustment clause or similar power pricing agreement between the Borrower and a power supplier, but not including the repayment of a membership fee upon termination of a membership.

“Equity” shall mean the Borrower’s total margins and equities computed in accordance with Accounting Requirements but excluding any Regulatory Created Assets.

“Event of Default” shall have the meaning as defined in Article VI of this Agreement.

“Existing Loan Contract” shall have the meaning set forth in the second WHEREAS clause of this Agreement.

“Fitch” shall mean Fitch IBCA, Inc., and any successor thereto.

“General Manager” shall mean the President and Chief Executive Officer of the Borrower or the person performing the duties of a chief executive officer if no person holds such title and, in the event of any dispute between the Borrower and the Government as to who is the General Manager, the Administrator may designate a person or position that shall be the General Manager for purposes of this Agreement.

“Indenture” shall mean the Indenture, dated as of [~~—~~, 2008], May 1, 2009, entered into by the Borrower and [~~TBD~~] U.S. Bank National Association, as trustee, and all amendments and supplements thereto.

“Interest Expense” shall mean the interest expense of the Borrower computed pursuant to Accounting Requirements.

“Investment” shall mean any loan or advance to, or any investment in, or purchase or commitment to purchase any stock, bonds, notes or other securities of, or guaranty, assumption or other obligation or liability with respect to the obligations of, any other person, firm or corporation, except investments in securities or deposits issued, guaranteed or fully insured as to payment by the Government or any agency thereof and except any other investments set forth in the RUS Regulations (7 C.F.R. § 1717.655) as excluded from computations of the amounts and types of investments for which RUS approval is required.

“Investment Grade” means a Credit Rating of BBB- (or its then current equivalent) or higher, if issued by S&P or Fitch; Baa3 (or its then current equivalent) or higher, if issued by Moody’s; and any comparable investment grade rating if issued by any other Rating Agency.

“Laws” shall have the meaning as defined in Paragraph (e) of Article II of this Agreement.

“Loans” shall mean the loans and other obligations described in Article III of this Agreement.

“Loan Documents” shall mean, collectively, this Agreement, the Indenture, the Lockbox Agreement and the RUS Notes.

“Material Adverse Effect” shall mean a material adverse effect on the condition, financial or otherwise, operations, properties or business of the Borrower or on the ability of the Borrower to perform its obligations under the Loan Documents.

“Moody’s” shall mean Moody’s Investors Service, and any successor thereto.

“Net Utility Plant” shall mean the amount constituting the Total Utility Plant of the Borrower, less depreciation, computed in accordance with Accounting Requirements.

~~“New RUS Note” shall mean that RUS 2008 Promissory Note Series A, dated [_____], 2008 in the stated principal amount of [\$_____] executed by the Borrower and delivered to the Government. “Permitted Debt” shall have the meaning set forth in section 5.27. Section 5.25.~~

“Prior Loan Contracts” shall mean have the meaning as defined in ~~section~~ Section 8.16.

“Prudent Utility Practice” shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. “Prudent Utility Practice” is not intended to be limited to the optimum practice, method or act, to the exclusion of all others, but rather to include a spectrum of possible practices, methods or acts generally in acceptance in light of the circumstances.

“Rating Agency” shall mean S&P, Moody’s, Fitch or, provided that it is acceptable to the RUS, any other nationally recognized statistical rating organization (within the meaning of the rules of the United States Securities and Exchange Commission).

“Regulatory Created Assets” shall mean the sum of any amounts properly recordable as unrecovered plant and regulatory study costs or as other regulatory assets, computed pursuant to Accounting Requirements.

“Restricted Rentals” shall mean all rentals required to be paid under finance leases and charged to income, exclusive of any amounts paid under any such lease (whether or not designated therein as rental or additional rental) for maintenance or repairs, insurance, taxes, assessments, water rates or similar charges. For the purpose of this definition the term “finance lease” shall mean any lease having a rental term (including the term for which such lease may be renewed or extended at the option of the lessee) in excess of three years and covering property having an initial cost of \$250,000 other than aircraft, ships, barges, automobiles, trucks, trailers, rolling stock and vehicles; office, garage and warehouse space; office equipment and computers. Restricted Rentals shall not include any amounts paid under any of the Facility Leases (as defined in the Indenture).

“RUS Notes” shall mean the ~~AR-VPR~~RUS Series A Note and the ~~New-RUS~~Series B Note.

“RUS Regulations” shall mean the rules, regulations and bulletins of general applicability published by the RUS from time to time as such rules, regulations and bulletins exist at the date of applicability thereof, including but not limited to the rules and regulations set forth at 7 C.F.R. 1700, and, unless the context clearly demonstrates a contrary intent, shall also include any rules and regulations of other Federal entities which the RUS is required by law to implement.

“RUS Series A Note” shall mean that RUS 2009 Promissory Note Series A, dated _____, 2009 in the stated principal amount of \$611,111,913 executed by the Borrower and delivered to the Government.

“RUS Series B Note” shall mean that RUS 2009 Promissory Note Series B, dated _____, 2009 in the stated principal amount of \$245,530,257.30 executed by the Borrower and delivered to the Government.

“Smelter Contracts” and each a “Smelter Contract” shall mean (i) the Wholesale Electric Service Agreement (Alcan) dated as of {_____}, ~~2008~~2009 by and between the Borrower and Kenergy Corp., (ii) the Wholesale Electric Service Agreement (Century) dated as of {_____}, ~~2008~~2009 by and between the Borrower and Kenergy Corp., (iii) the Retail Electric Service Agreement dated as of {_____}, ~~2008~~2009 by and between Kenergy Corp. and Alcan Primary Products Corporation, (iv) the Retail Electric Service Agreement dated as of {_____}, ~~2008~~2009 by and between Kenergy Corp. and Century Aluminum of Kentucky General Partnership, (v) the Coordination Agreement dated as of {_____}, ~~2008~~2009 by and between the Borrower and Alcan Primary Products Corporation, and (vi) the Coordination Agreement dated as of {_____}, ~~2008~~2009 by and between the Borrower and Century Aluminum of Kentucky General Partnership.

“Special Construction Account” shall have the meaning as defined in ~~section 5.23.~~Section 5.22.

“Subordinated Indebtedness” shall mean secured indebtedness of the Borrower subordinated to the prior payment of the RUS Notes.

“Subsidiary” shall mean a corporation that is a subsidiary of the Borrower and subject to the Borrower’s control, as defined by Accounting Requirements.

“S&P” shall mean Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and any successor thereto.

“System” shall have the meaning as defined in the Indenture.

“Total Assets” shall mean an amount constituting the total assets of the Borrower as computed pursuant Accounting Requirements, but excluding any Regulatory Created Assets.

“Total Utility Plant” shall mean the amount constituting the total utility plant (gross) of the Borrower computed in accordance with Accounting Requirements.

“Unwind Transaction” shall mean the termination of the contractual relationships and property interests contemplated by the Transaction Termination Agreement dated as of March 26, 2007 among the Borrower, LG&E Energy Marketing Inc. and Western Kentucky Energy Corp.

“Wholesale Power Contracts” shall mean, collectively and individually, the wholesale power contracts in effect between the Borrower and each of its member distribution cooperatives, which are described in the attached Schedule I, Exhibit D, and all amendments, supplements or replacements thereto or thereof.

ARTICLE II.

REPRESENTATIONS AND WARRANTIES

Recognizing that the RUS is relying hereon, the Borrower represents and warrants, as of the date of this Agreement, as follows:

(a) *Organization; Power, Etc.* The Borrower: (i) is duly organized, validly existing, and in good standing under the laws of the Commonwealth of Kentucky; (ii) is duly qualified to do business and is in good standing in each jurisdiction in which the transaction of its business makes such qualification necessary; (iii) has all requisite corporate and legal power to own and operate its assets and to carry on its business and to enter into and perform its obligations under the Loan Documents; and (iv) has duly and lawfully obtained and maintained all licenses, certificates, permits, authorizations and approvals which are necessary to the conduct of its business or required by applicable Laws.

(b) *Authority.* The execution, delivery and performance by the Borrower of this Agreement and the other Loan Documents and the performance of the transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action and do not violate any provision of law or of the Articles of Incorporation or Bylaws of the Borrower or result in a

breach of, or constitute a default under, any agreement, indenture or other instrument to which the Borrower is a party or by which it may be bound.

(c) *Consents.* No consent, permission, authorization, order or license of any governmental authority is necessary in connection with the execution, delivery or performance of the Loan Documents, except such as have been obtained and are in full force and effect.

(d) *Binding Agreement.* Each of the Loan Documents, the Wholesale Power Contracts and the Smelter Contracts is, or when executed and delivered will be, the legal, valid, and binding obligation of the Borrower, enforceable in accordance with its terms, subject only to limitations on enforceability imposed in equity or by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally.

(e) *Compliance With Laws.* The Borrower is in compliance in all material respects with all federal, state and local laws, rules, regulations, ordinances, codes and orders (collectively, "Laws"), the failure to comply with which could reasonably be expected to have a Material Adverse Effect.

(f) *Litigation.* There are no pending legal, arbitration or governmental actions or proceedings to which the Borrower is a party or to which any of its property is subject which, if adversely determined, could have a Material Adverse Effect, and to the best of the Borrower's knowledge, no such actions or proceedings are threatened or contemplated, except as the Borrower has disclosed to the RUS in writing.

(g) *Financial Statements, No Material Adverse Change; Etc.* The financial statements, including RUS Form 12, submitted to RUS ~~dated as of December 31, 2007~~ fairly and fully present the financial condition of the Borrower and the results of its operations ~~for the periods covered thereby~~ as of December 31, 2008 and were prepared in accordance with Accounting Requirements consistently applied. ~~Since December 31, 2007,~~ 2008, there has been no material adverse change in the financial condition or operations of the Borrower. The financial statements submitted to the Kentucky Public Service Commission in connection with Unwind Transaction (Case No. 2007-0045) fairly and fully presented the financial condition of the Borrower and the results of its operations at the time of their filing (subject to any final year -end adjustments and footnotes) and any projections filed by the Borrower in the proceeding of the Kentucky Public Service Commission to approve the Unwind Transaction were based on assumptions which were commercially reasonable at the time any such projections were filed.

(h) *Budgets; Projections; Etc.* All budgets, projections, feasibility studies, appraisals, and other documentation submitted by the Borrower to the RUS and any Rating Agency then assigning a Credit Rating are based on assumptions that are reasonable and realistic, as of the date hereof, no fact has come to light, and no event or transaction has occurred, which would cause any assumption made therein not to be reasonable or realistic.

(i) *Location of Properties.* All property and interests therein of the Borrower are located in the states and counties identified in the Indenture.

(j) *Principal Place of Business; Records.* The principal place of business and chief executive office of the Borrower is at the address of the Borrower specified in Section 8.2.

(k) *Subsidiaries.* The Borrower has no Subsidiaries other than Big Rivers Leasing LLC, a Delaware limited liability company.

(l) *Defaults Under Other Agreements.* The Borrower is not in default under any agreement or instrument under which the Borrower is a party or to which any of its property is subject that could reasonably be expected to have a Material Adverse Effect.

(m) *Title to Property.* As to the property which is included in the description of the Trust Estate, the Borrower holds good and marketable title to all of its real property and owns all of its personal property free and clear of any lien or encumbrance other than Permitted Exceptions and liens permitted by Section 14.6 of the Indenture.

ARTICLE III.

THE LOANS

Section 3.1. The Existing Loans

The Borrower has borrowed funds from the Government, acting by and through the Administrator of the RUS, evidenced by the RUS Notes, has agreed to reimburse the Government, acting by and through the Administrator of the RUS, for the amounts borrowed pursuant to the terms of the RUS Notes.

Section 3.2. No Further Advances

The Borrower acknowledges and agrees that all amounts to be advanced to the Borrower under the RUS Notes have been advanced and the Government, acting by or through the Administrator of the RUS, is under no obligation to make any further advances to the Borrower under the RUS Notes.

Section 3.3. Interest Rates and Payment

(a) *Interest Rates.* The RUS Notes shall be payable and bear interest, as therein provided.

(b) *Application of Payments.* All payments made to RUS on the Borrower's behalf or for the account of the Borrower shall be accepted by the Government and shall be applied as follows: (i) first, if and only if, at the time of the Government's receipt of such amounts, any payments are then due and owing under the ARVPRUS Series B Note, then such amounts shall be applied to the ARVPRUS Series B Note to the extent, and only to the extent, of such payments

then due and owing thereunder, (ii) second, to any amounts then due and owing under the New RUS Series A Note, and (iii) third, as a prepayment of principal on the New RUS Series A Note. In the absence of a written directive from Borrower, no amounts paid to the Government shall be applied as a prepayment on the ARVPRUS Series B Note unless and until ~~all other~~ the obligations of Borrower ~~to~~ under the Government RUS Series A Note have been satisfied in full.

(c) *Electronic Funds Transfer.* Except as otherwise prescribed by the RUS, the Borrower shall make all payments on the RUS Notes utilizing electronic funds transfer procedures as specified by the RUS.

Section 3.4. Prepayment

The Borrower may prepay the RUS Notes in whole or in part in the sole discretion of the Borrower without penalty or prepayment premium, provided, however, in no event shall such a voluntary prepayment of the RUS Series B Note be deemed an acceleration or cause an adjustment to the principal thereof.

~~Section 3.5 Limitation on Aggregate Principal Amount of the RUS Notes~~

~~Notwithstanding the terms of the RUS Notes, the aggregate amount payable under the RUS Notes upon any acceleration thereof shall be the lesser of (i) the beginning principal amount of the New RUS Note, or (ii) the amount payable upon acceleration under the terms of the RUS Notes.~~

~~Section 3.6 No Other Obligation of Borrower~~

~~The Government and RUS acknowledge and agree that, as of the date hereof, the Borrower owes no indebtedness or obligations to either the Government or RUS, except the indebtedness and obligations evidenced by the Loan Documents.~~

ARTICLE IV.

AFFIRMATIVE COVENANTS

Section 4.1. Generally

Unless otherwise agreed to in writing by the RUS, while this Agreement is in effect, the Borrower shall duly observe each of the affirmative covenants contained in this Article IV.

Section 4.2. Performance under Loan Documents

The Borrower shall duly observe and perform all of its obligations under each of the Loan Documents.

Section 4.3. Annual Certification

Within ninety (90) days after the close of each fiscal year (or, if the Borrower has delivered written notice to the RUS prior to the expiration of such ninety (90) day period that the Borrower has determined in good faith that an additional thirty (30) days for such delivery is necessary or advisable, then within one hundred twenty (120) days after the close of the fiscal year with respect to which such notice has been delivered), the Borrower shall deliver to the RUS a written statement signed by its General Manager, stating that during such year the Borrower has fulfilled its obligations under the Loan Documents throughout such year in all material respects or, if there has been a material default in the fulfillment of such obligations, specifying each such default known to the General Manager and the nature and status thereof.

Section 4.4. Rates and Margins for Interest Ratios

(a) *Prospective Requirement.* The Borrower shall design and implement rates for utility service furnished by it to maintain, on an annual basis, the Margins for Interest Ratio specified in Section 13.14 of the Indenture.

(b) *Prospective Notice of Change in Rates.* The Borrower shall give the RUS sixty (60) days' ~~prior~~ written notice prior to the effective date of any proposed change in the Borrower's general rate structure.

(c) *Routine Reporting of Margins for Interest Ratio.* The Borrower shall report to the RUS, no later than 45 days after December 31 of each year, in such written format as the RUS may require, the Margins for Interest Ratio that was achieved during the preceding 12-month period ending on December ~~31, respectively~~ 31 of such year.

(d) *Reporting Non-achievement of Retrospective Requirement.* If the Borrower fails to achieve the Margins for Interest Ratio specified in Section 13.14 of the Indenture for any fiscal year, it must promptly notify RUS in writing to that effect.

(e) *Corrective Plans.* Within thirty (30) days of (i) sending a notice to the RUS under paragraph (d) above that shows the Margins for Interest Ratio specified by Section 13.14 of the Indenture was not achieved for any fiscal year, or (ii) being notified by the RUS that the Margins for Interest Ratio specified by Section 13.14 of the Indenture was not achieved for any fiscal year, whichever is earlier, the Borrower in consultation with the RUS shall provide a written plan satisfactory to the RUS setting forth the actions that shall be taken to achieve the specified Margins for Interest Ratio on a timely basis.

(f) *Noncompliance.* Failure to design and implement rates pursuant to paragraph (a) of this section and failure to develop and implement the plan ~~called for in~~ accordance with the terms of paragraph (e) of this section shall constitute an Event of Default under this Agreement in the event that RUS so notifies the Borrower to that effect under ~~section~~ Section 6.1(d) of this Agreement.

Section 4.5. Financial Books

The Borrower shall at all times keep, and safely preserve, proper books, records and accounts in which full and true entries shall be made of all of the dealings, business and affairs of the Borrower and its Subsidiaries, if any, in accordance with any applicable Accounting Requirements.

Section 4.6. Rights of Inspection

The Borrower shall afford the RUS, through its representatives, reasonable opportunity, at all times during business hours and upon prior notice, to have access to and the right to inspect the System, any other property encumbered by the Indenture, and any or all books, records, accounts, invoices, contracts, leases, payrolls, canceled checks, statements and other documents and papers of every kind belonging to or in the possession of the Borrower or in any way pertaining to its property or business, including its Subsidiaries, if any, and to make copies or extracts therefrom.

Section 4.7. Real Property Acquisition

In acquiring real property, the Borrower shall comply in all material respects with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987, and 49 C.F.R. part 24, referenced by 7 C.F.R. part 21, to the extent applicable to such acquisition.

Section 4.8. Financial Reports

Within 120 days of the end of each fiscal year, the Borrower shall cause to be prepared and furnished to the RUS a full and complete annual report of its financial condition and of its operations in form and substance satisfactory to the RUS, audited and certified by an Independent certified public accountant satisfactory to the RUS and accompanied by a report of such audit in form and substance reasonably satisfactory to the RUS. The Borrower shall also furnish to the RUS from time to time such other reports concerning the financial condition or operations of the Borrower, including its Subsidiaries, as the RUS may request or RUS Regulations require.

Section 4.9. Miscellaneous Reports and Notices

The Borrower shall furnish to the RUS:

(a) *Notice of Default.* Promptly after becoming aware thereof, notice of: (i) the occurrence of any Event of Default under this Agreement or event which with the giving of notice or the passage of time, or both, would become an Event of Default; and (ii) the receipt of any notice given pursuant to the Indenture with respect to the occurrence of any event which with the giving of notice or the passage of time, or both, could become an "Event of Default" under the Indenture and (iii) the occurrence of any event under any agreement which with the giving of notice or the passage of time, or both, could become an "Event of Default" under such agreement and result in a Material Adverse Effect.

(b) *Notice of Non-Environmental Litigation.* Promptly after the commencement thereof, notice of the commencement of all actions, suits or proceedings before any court, arbitrator, or governmental department, commission, board, bureau, agency or instrumentality affecting the Borrower which, could reasonably be expected to have a Material Adverse Effect.

(c) *Notice of Environmental Litigation.* Without limiting the provisions of Section 4.9(b) above, promptly after receipt thereof, notice of the receipt of all pleadings, orders, complaints, indictments, or other communications alleging a condition that may require the Borrower to undertake or to contribute to a cleanup or other response under laws relating to environmental protection, or which seek penalties, damages, injunctive relief, or criminal sanctions related to alleged violations or such laws, or which claim personal injury or property damage to any person as a result of environmental factors or conditions for which the Borrower is not fully covered by insurance, or which could reasonably be expected to have a Material Adverse Effect.

(d) *Notice of Application for Competitive Transition Charges.* Promptly, but no later than 60 days prior to submission to any approval authority, including without limitation, any regulatory or legislative authority, written notice of an application for authority to collect Competitive Transition Charges. Without limiting the right of RUS to request other information, RUS has the right to request the Borrower to provide to RUS a written appraisal or other financial assessment of the Competitive Transition Charges.

(c) *Notice of Change of Place of Business.* Promptly in writing, notice of any change in location of its principal place of business or the office where its records concerning accounts and contract rights are kept.

(d) *Regulatory and Other Notices.* Promptly after receipt thereof, copies of any notices or other communications received from any governmental authority with respect to any matter or proceeding which could reasonably be expected to have a Material Adverse Effect.

(e) *Ratings.* Promptly after receipt thereof, copies of Credit Ratings and copies of any reports with respect to the Borrower or its Credit Rating issued by any Rating Agency.

(f) *Material Adverse Effect.* Promptly after becoming aware thereof, notice of any matter that has had or is likely could reasonably be expected to have a Material Adverse Effect.

(g) *Other Information.* Such other information regarding the condition, financial or otherwise, or operations, properties or business of the Borrower as the RUS may, from time to time, reasonably request.

Section 4.10. Variable Rate Indebtedness

In connection with the furnishing of its annual report to the RUS pursuant to Section 4.8, the Borrower shall report to the RUS, in such written format as may be acceptable to the RUS, the specific maturities of all of the Borrower's outstanding indebtedness and, the interest rates

applicable thereto, including, without limitation, with respect to any indebtedness not bearing a fixed rate through the maturity of such indebtedness, the method and timing for adjustment and readjustment of the applicable interest rate.

Section 4.11. Compliance with Laws

The Borrower shall operate and maintain the System and its properties in compliance in all material respects with all applicable Laws.

Section 4.12. Separate Accounts

The Borrower shall execute and deliver, with a financial institution approved by the RUS, a lockbox agreement or agreements substantially in the form of Exhibit A attached hereto (“Lockbox Agreement”) and shall at all times maintain such Lockbox Agreement in full force and effect. The Borrower shall not, without first complying with the requirements of Section 8.1, amend, supplement or otherwise modify the Lockbox Agreement. In the event: (a) the Borrower’s ~~Credit Rating~~ is no longer has two Investment Grade; ~~(b) credit ratings from at least two Rating Agencies~~; (b) the Borrower’s total current and accrued liabilities exceed the Borrower’s total current and accrued assets; (c) the Administrator determines the System is incapable of providing reliable service to the members of the Borrower pursuant to the terms of the Wholesale Power Contracts; ~~(e)~~ the Administrator determines that as a consequence of any change in the condition, financial or otherwise, operations, properties or business of the Borrower, the Borrower will be unable to perform its material obligations under (i) this Agreement, (ii) the Wholesale Power Contracts, (iii) the RUS Notes, or (iv) the Indenture; or ~~(de)~~ there is an Event of Default under the Indenture, or any event that with the passage of time or giving of notice, or both, would constitute an Event of Default under the Indenture, the Borrower shall, if so directed in writing by the Administrator of the RUS, (a) deposit, pursuant to the Lockbox Agreement, all cash proceeds of the Trust Estate, including, without limitation, checks, money and the like (other than cash proceeds deposited or required to be deposited with the Trustee pursuant to the Indenture), which cash proceeds shall include, without limitation, all payments by members of the Borrower on account of the Wholesale Power Contracts, in separate deposit or other accounts, segregated from all other monies, revenues and investments of the Borrower, and (b) take all such other actions as the RUS shall request to continue perfection of the lien of the Indenture in such proceeds for the benefit of all Holders of the Outstanding Secured Obligations.

Section 4.13. Property Maintenance

The Borrower shall maintain and preserve its System in compliance in all material respects with the provisions of the Indenture, RUS Regulations ~~and~~, all applicable Laws, and Prudent Utility Practice.

Section 4.14. Load Forecast

The Borrower shall prepare and use load forecasts with respect to its electric loads and future energy and capacity requirements in conformance with RUS Regulations. ~~The Borrower shall provide the RUS with copies of all such load forecasts promptly after receipt thereof.~~

Section 4.15. Long Range Engineering Plans and Construction Work Plans

The Borrower shall develop, maintain and use up-to-date long-range engineering plans and construction work plans in conformance with RUS Regulations.

Section 4.16. Design Standards, Construction Standards and List of Materials

The Borrower shall use design standards, construction standards, and lists of acceptable materials in conformance with RUS Regulations.

Section 4.17. Plans and Specifications

The Borrower shall submit plans and specifications for construction to RUS for review and approval, in conformance with RUS Regulations, if the construction will be financed in whole or in part by a loan made or guaranteed by RUS.

Section 4.18. Standard Forms of Construction Contracts, and Engineering and Architectural Services Contracts

The Borrower shall use the standard forms of contracts promulgated by the RUS for construction, procurement, engineering services and architectural services, in conformance with RUS Regulations, if the construction, procurement, or services will be financed in whole or in part by a loan made or guaranteed by the RUS.

Section 4.19. Contract Bidding Requirements

The Borrower shall follow the RUS contract bidding procedures in conformance with RUS Regulations when contracting for construction or procurement, if the construction or procurement will be financed in whole or in part by a loan made or guaranteed by the RUS.

Section 4.20. Nondiscrimination

(a) *Equal Opportunity Provisions in Construction Contracts.* The Borrower shall incorporate or cause to be incorporated into any construction contract, as defined in Executive Order 11246 of September 24, 1965 and implementing regulations, which is paid for in whole or in part with funds obtained from the RUS or borrowed on the credit of the United States pursuant to a grant, contract, loan, insurance or guarantee, or undertaken pursuant to any RUS program involving such grant, contract, loan, insurance or guarantee, the equal opportunity provisions set forth in Exhibit B attached hereto entitled Equal Opportunity Contract Provisions.

(b) *Equal Opportunity Contract Provisions Also Bind the Borrower.* The Borrower further agrees that it shall be bound by such equal opportunity clause in any federally assisted construction work which it performs itself other than through the permanent work force directly employed by an agency of government.

(c) *Sanctions and Penalties.* The Borrower agrees that it shall cooperate actively with the RUS and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations and relevant orders of the Secretary of Labor, that it shall furnish the RUS and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it shall otherwise assist the administering agency in the discharge of the RUS's primary responsibility for securing compliance. The Borrower further agrees that it shall refrain from entering into any contract or contract modification subject to Executive Order 11246 with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to Part II, Subpart D of Executive Order 11246 and shall carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the RUS or the Secretary of Labor pursuant to Part II, Subpart D of Executive Order 11246. In addition, the Borrower agrees that if it fails or refuses to comply with these undertakings the RUS may cancel, terminate or suspend in whole or in part this contract, may refrain from extending any further assistance under any of its programs subject to Executive Order 11246 until satisfactory assurance of future compliance has been received from the Borrower, or may refer the case to the Department of Justice for appropriate legal proceedings.

Section 4.21. "Buy American" Requirements

The Borrower shall use or cause to be used in connection with the expenditures of funds if such funds were obtained in whole or in part by a loan being made or guaranteed by the RUS only such unmanufactured articles, materials, and supplies as have been mined or produced in the United States or any eligible country, and only such manufactured articles, materials, and supplies as have been manufactured in the United States or any eligible country substantially all from articles, materials, and supplies mined, produced or manufactured, as the case may be, in the United States or any eligible country, except to the extent the RUS shall determine that such use shall be impracticable or that the cost thereof shall be unreasonable. For purposes of this section, an "eligible country" is any country that has with respect to the United States an agreement ensuring reciprocal access for United States products and services and United States suppliers to the markets of that country, as determined by the United States Trade Representative.

Section 4.22. Depreciation Plan

The Borrower shall adopt as its depreciation rates only those that have been previously approved for the Borrower by RUS (through RUS Regulation or by specific approval by RUS). The Borrower shall not file with or submit for approval of any regulatory bodies depreciation rates which are inconsistent with those approved for the Borrower by RUS.

Section 4.23. Maintenance of Credit Ratings

(a) *Maintenance of Credit Ratings.* As long as there remains any RUS Note, the Borrower shall (i) maintain a Credit Rating from at least two Rating Agencies and (ii) continuously subscribe with a Rating Agency for the services described in Exhibit C attached hereto.

(b) *Reporting Non-achievement of Investment Grade Credit Rating.* If the Borrower fails to maintain atwo ~~Credit Rating~~Ratings of Investment Grade, it must notify RUS in writing to that effect within five (5) days after becoming aware of such failure.

(c) *Corrective Plans.* Within thirty (30) days of ~~delivering a notice to the RUS under paragraph (b) of this Section 4.23 that~~ the date on which the Borrower has failed~~fails~~ to maintain atwo ~~Credit Rating~~Ratings of Investment Grade, the Borrower in consultation with the RUS shall provide a written plan satisfactory to the RUS setting forth the actions that shall be taken that are reasonably expected to achieve atwo ~~Credit Rating~~Ratings of Investment Grade.

(d) *Noncompliance.* Failure to implement a corrective plan developed in accordance with paragraph (c) of this section shall constitute an Event of Default under this Agreement ~~in the event that RUS so notified the Borrower to that effect under section 6.1(d) of this Agreement.~~

ARTICLE V.

NEGATIVE COVENANTS

Section 5.1. General

Unless otherwise agreed to in writing by the RUS, while this Agreement is in effect, the Borrower shall duly observe each of the negative covenants set forth in this Article V.

Section 5.2. Acquisition of Capital Assets

The Borrower shall not, without first complying with the requirements of ~~section~~Section 8.1, extend or add to its System by purchasing, constructing, leasing or otherwise acquiring Capital Assets, including Capital Assets that constitute utility or non-utility plant, with funds from sources other than loans made or guaranteed by RUS in the case of:

(a) Generating facilities if the total expenditures for the facilities to be built, procured, or leased, including any future facilities included in the planned project, will exceed the lesser of \$10 million or thirty percent (30%) of the Borrower's Equity; or

(b) Existing electric facilities or systems in service whose purchase price, or capitalized value in the case of a lease, exceeds ten percent (10%) of the Borrower's Net Utility Plant;

(c) Any new project to serve an end user whose annual ~~Kwh~~kWh purchases or maximum annual ~~Kw~~kW demand is projected to exceed 25 percent of the Borrower's total ~~Kwh~~kWh sales or maximum ~~Kw~~kW demand in the year immediately preceding the start of construction of facilities; provided, however, this Section 5.2(c) shall not preclude the Borrower from purchasing constructing, leasing or otherwise acquiring Capital Assets without complying with the requirements of ~~section~~Section 8.1 for a project intended to facilitate the providing of service to an end user in accordance with the provisions of a Smelter Contract, provided, further, however that the Borrower may not purchase, construct, lease or otherwise acquire Capital Assets pursuant to the preceding provision without first complying with the requirements of Section 8.1, if the estimated costs of any such project are estimated to exceed \$10,000,000.

Section 5.3. Disposition or Releases of Capital Assets

The Borrower shall not, without first complying with the requirements of ~~section~~Section 8.1, voluntarily or involuntarily sell, convey, transfer, lease, as lessor, or otherwise dispose of any portion of its business or Capital Assets, or request the release of or release any Capital Assets from the lien of the Indenture or enter into contracts therefor in any calendar year except in compliance with all applicable RUS Regulations, including without limitation, RUS Bulletin 1717M-2, and any successor regulation. For purposes of measuring the Borrower's compliance with the preceding sentence of this Section 5.3, ~~(i)~~ Section 4(a)(1)(a) of RUS Bulletin 1717M-2 shall be deemed to be modified to read as follows: "The Borrower is not in default;" and ~~(ii)~~ Section 4(a)(1)(f) of RUS Bulletin 1717M-2 shall be deemed to be modified to increase the amount of "\$5 million" set forth therein to "\$[19] million". ~~To the extent Borrower receives the prior written approval of RUS to any of,~~ Notwithstanding the foregoing, the use by Borrower of the proceeds of any such sale, conveyance, transfer, lease or other disposition shall be in compliance with the Indenture.

Section 5.4. Limitations on Mergers and Sale, Lease or Transfer of Capital Assets

The Borrower shall not consolidate or merge with, or sell all or substantially all of its business or assets to, another Person, except to the extent it is expressly permitted under the Indenture.

Section 5.5. Limitations on Employment and Retention of General Manager

At any time an Event of Default, or an event which with the passage of time or the giving of notice, or both, would become an Event of Default, occurs and is continuing, the Borrower shall not, without the prior written approval of the RUS, enter into an employment relationship with any person to serve as General Manager of the System. If an Event of Default, or an event which with

the passage of time or the giving of notice, or both, would become an Event of Default, occurs and is continuing and the RUS requests the Borrower to terminate the employment of its General Manager, the Borrower shall do so within thirty (30) days after the date of such request. All contracts in respect of the employment of the General Manager or for the operation of the Utility System or the Electric System, hereafter entered into shall contain provisions to permit compliance with this Section 5.5.

Section 5.6. Limitations on Certain Types of Contracts

(a) *Approval of Certain Contracts.* The Borrower shall not, without first complying with the requirements of ~~section~~Section 8.1, enter into any of the following:

(i) Any contract for the management and operation of all or a material portion of its System;

(ii) Any contract for the purchase, exchange or sale of electric power or energy that has a term exceeding two (2) years;

(iii) Any contract for the purchase or sale of interconnection, interchange wheeling, transmission, pooling, ancillary services pooling or similar power supply arrangements that has a term exceeding two (2) years;

(iv) Any contract for construction or procurement or for architectural and engineering services in connection with the Borrower's System if the project is financed or will be financed, in whole or in part, by a loan made or guaranteed by the RUS;

(v) Any amendment or modification to any of the Wholesale Power Contracts, including the Schedules thereto, including the Wholesale Power Contracts listed in ~~Schedule 2,~~ the attached Exhibit D, except that the Borrower may amend or modify provisions specifying delivery points.

(b) *Terminations.* The Borrower shall not, without first complying with the requirements of Section 8.1, exercise any option to terminate any contract, including, without limitation, any Wholesale Power Contract, if such contract, based upon its nature, remaining term (not taking into account any option of the Borrower to terminate) and size, would be required to be approved by the RUS pursuant to paragraph (a) of this Section 5.6 if the Borrower were to have entered into such contract on the proposed termination date. The Borrower further agrees at the written direction of the RUS to exercise any option to terminate a contract if the exercise by the Borrower of that option would require compliance with the requirements of Section 8.1 pursuant to the immediately preceding sentence unless the exercise of such termination right could reasonably be expected to have a Material Adverse Effect.-

(c) *Determination of Term.* For purposes of this Section 5.6, the term of any contract shall be determined in accordance with this Section 5.6(c). The term of any contract shall be the period during which performance (other than payment) is to occur and not the period commencing

when such contract is executed. The term of any contract shall be based upon the period prior to the first date upon which the Borrower could, at its option, terminate the contract (taking into account any notice period required for termination).

(d) *Amendments; Extensions.* Any amendment or modification to an existing contract (including an extension thereof) shall be governed by this Section 5.6 only to the extent such specific amendment or modification (and not the contract as a whole), judged as if it were a separate contract, would be required to be approved by the RUS pursuant to paragraph (a) of this Section 5.6.

Section 5.7. Limitations on Loans, Investments and Other Obligations

The Borrower shall not, without first complying with the requirements of ~~section~~Section 8.1, make any loan or advance to, or make any Investment in, or purchase or make any commitment to purchase any stock, bonds, notes or other securities of, or guaranty, assume or otherwise become obligated or liable with respect to the obligations of, any other person, firm or corporation, except as permitted by the Act and RUS Regulations. In computing any permissible level of Investments in any person, firm or corporation in accordance with this Section 5.7 and the RUS Regulations, the Borrower's existing capital contribution to Big Rivers Leasing LLC (~~formerly Big Rivers Leasing Corporation~~) shall not be included as contributing to the level of aggregate permissible Investments.

Section 5.8. Rate Changes

The Borrower shall not, without the ~~prior written approval of RUS~~, first complying with the requirements of Section 8.1, increase or reduce its rates ~~if it has failed to comply with the provisions of Section 14.14 of the Indenture for the fiscal year prior to such increase or reduction.~~

Section 5.9. Indenture Restrictions

Notwithstanding the provisions of the Indenture, the Borrower shall not, without first complying with the requirements of Section 8.1:

(a) consolidate or merge with any other corporation or convey or transfer the Trust Estate under the Indenture substantially as an entirety, or otherwise reorganize its corporate structure to transfer functions or any substantial part of the Trust Estate to any other Person;

(b) elect pursuant to Section 1.1D of the Indenture to apply Accounting Requirements in effect as of the date of execution and delivery of the Indenture;

(c) include as Property Additions, under any provision of the Indenture, any property that would not qualify as Property Additions but for paragraph C of the definition of Property Additions, or sell, lease or sublease any portion of the Trust Estate pursuant to paragraph H of Section 6.1 of the Indenture;

(d) submit an Available Margins Certificate under Article V of the Indenture for the purpose of issuing Additional Obligations unless such Certificate is accompanied by an Independent Accountant's Certificate stating in substance that nothing came to the attention of such Accountant in connection with its unaudited review of the applicable period that would lead such Accountant to believe that there was any incorrect or inaccurate statement in such Certificate;

(e) enter into a Supplemental Indenture pursuant to Section 13.1H of the Indenture;

(f) enter into a Supplemental Indenture pursuant to Section 13.1B or 13.1C of the Indenture if (i) the Holders of the Obligations issued under such Supplemental Indenture are granted greater security rights in and to the Trust Estate than those security rights enjoyed by the Government in its capacity as a Holder of Obligations under the Indenture, provided, however, that neither (I) the existence of Credit Enhancement nor (II) the creation and maintenance of debt service or similar funds for the payment of the principal and interest on Obligations issued under such Supplemental Indenture (to the extent such debt service or other similar funds are funded from the proceeds of the issuance of such Obligations or funded in connection with the refinancing of other debt by such Obligations), shall constitute greater security rights in and to the Trust Estate requiring the Borrower to comply with the requirements of Section 8.1; (ii) the Supplemental Indenture provides for covenants, restrictions, limitations, conditions, events of defaults or remedies not applicable to all Obligations then Outstanding or not equally available to all Holders of Obligations then Outstanding, provided, however, that provisions for covenants and events of default that relate solely to assuring that the interest on such Obligations (or other indebtedness secured by such Obligations) is excludable from the gross income of the holder thereof pursuant to the Internal Revenue Code, as amended, shall not constitute the providing of covenants or events of default requiring the Borrower to comply with the requirements of Section 8.1; or (iii) the Obligations issued under such Supplemental Indenture, or the indebtedness secured by such Obligations, can be (a) accelerated or (b) effectively accelerated through a mandatory purchase or similar mechanism, in either case, as a consequence of a breach or default by the Borrower under the related loan agreement or similar agreement entered into in connection with such Obligation or indebtedness, provided, however, that acceleration and similar rights may be granted to development authorities and trustees without first complying with the requirements of Section 8.1 in connection with the issuance of Obligations (or other indebtedness secured by such Obligations) the interest on which is excludable from the gross income of the holder thereof pursuant to the Internal Revenue Code, as amended, if such acceleration and similar rights are substantially similar to those currently granted to development authorities and trustees in connection with the Existing Obligations;

(g) create or incur or suffer or permit to be created or incurred or to exist any pledge of current assets secured under the Indenture to secure current liabilities;

(h) take any of the following actions:

(i) provide under the Indenture a Certificate of an Appraiser who is not Independent if the value of the property or securities to which such certificate applies is greater than \$500,000;

(ii) provide under the Indenture a Certificate of an Engineer who is not a licensed professional with respect to any project if the cost of such project is greater than \$50,000; or

(iii) provide under the Indenture a Certificate of an Engineer who is not Independent and a licensed professional with respect to the fair value or repair cost of any project if either (A) the fair value or repair cost of such project is greater than \$5,000,000 or (B) RUS has requested in writing such certificate to be provided by an Engineer who is Independent and a licensed professional;

(i) modify or alter Section 9.7 of the Indenture or the obligation of the Trustee under the Indenture to hold the Trust Estate for the equal and proportionate benefit and security of the Holders, without any priority of any Obligation over any other Obligation; or

(j) certify pursuant to Section 5.3D(1) or 5.3D(2) of the Indenture any retired Obligation or any principal payment on an Obligation as the basis for taking any action under the Indenture, if such retirement or payment is pursuant to a regularly scheduled sinking fund or principal installment or made at the Stated Maturity of such Obligation; provided, however, that the Borrower shall not have to comply with the requirements of Section 8.1 before certifying pursuant to Section 5.3D(1) or 5.3D(2) of the Indenture in connection with the issuance of Additional Obligations under the Indenture if such Additional Obligations are:

(1) issued to refund Obligations the interest on which is exempt from taxation under Section 103 of the Internal Revenue Code, or obligations which were issued to refund such tax-exempt Obligations;

(2) issued to refund Obligations owed to, or guaranteed by, the United States of America acting through the RUS, or obligations which were issued to refund such Obligations owed to, or guaranteed by, the United States of America acting through the RUS; or

(3) Obligations issued to refund Obligations, if the combined term of the refunded Obligations and the refunding Additional Obligations does not exceed the term for which the refunded Obligations could have been originally issued under the provisions of this paragraph (j) or paragraph (k) of this Section 5.9.

(k) issue any Additional Obligations under the Indenture to finance Property Additions unless the following additional requirements are ~~met~~satisfied in addition to the requirements set forth in the Indenture for issuing such Additional Obligations:

(1) If the proceeds of such Additional Obligations are being used to finance the initial cost of the construction or acquisition of identified tangible assets, the weighted average life of the loan evidenced by such Additional Obligations does not exceed the weighted average of the expected remaining useful lives of the assets being financed;

(2) The principal of the loan evidenced by such Additional Obligations is amortized at a rate that shall yield a weighted average life that is not greater than the weighted average life that would result from level payments of principal and interest; and

(3) The principal of the loan being evidenced by such Additional Obligations has a maturity of not less than five years.

In determining its compliance with the requirements of clause (2) of this paragraph (k), the Borrower shall be permitted to make reasonable assumptions as to the interest rate which such Additional Obligations will bear as the Borrower deems appropriate in light of the prevailing interest rate environment in which such Additional Obligations are to be issued; or

(l) permit any liens in respect of judgments or awards which would be Permitted Exceptions pursuant to Paragraph F of the definition of "Permitted Exceptions" in the Indenture, by virtue of the fact that such liens are fully covered by insurance; or

(m) enter into any leases to and permits for occupancy, which materially impair the Company's use of the property in the conduct of its business, by, other Persons which would be Permitted Exceptions pursuant to Paragraph K of the definition of "Permitted Exceptions" by virtue of the fact that any such leases and/or permits are for a period of less than ten (10) years.

Section 5.10. Negative Pledge

The Borrower shall not, without first complying with the requirements of Section 8.1, directly or indirectly create, incur, assume or permit to exist any lien, mortgage, pledge, security interest, charge or encumbrance of any kind, whether voluntary or involuntary (including any conditional sale or other title retention agreement, any lease in the nature thereof, and any other agreement to give any security interest) on or with respect to any of the Excepted Property except for:

(a) Permitted Exceptions (other than the Permitted Exception described in paragraph Y of the definition of Permitted Exceptions);

(b) as to the Excepted Property described in paragraphs B through E of the Indenture, inclusive, and paragraph K of the definition of Excepted Property, liens, mortgages, pledges, security interests, charges and encumbrances in connection with purchase money, construction or acquisition indebtedness (or renewals or extensions thereof) that encumber only the asset or assets so purchased, constructed or acquired or property improved through such purchase, construction or acquisition, and the proceeds upon a sale, transfer or exchange thereof;

(c) liens, mortgages, pledges, security interests, charges and encumbrances (i) for the benefit of all Holders of the Obligations issued under the Indenture, (ii) in connection with any bond service or similar fund established by the Borrower with respect to any debt securities, the

interest on which is excludable from gross income of the holder thereof pursuant to the Internal Revenue Code, as amended, to the extent of amounts deposited in such funds in the ordinary course to make regularly scheduled payments on such debt securities, or (iii) in connection with any debt service or similar fund established by the Borrower for the payment of principal or interest on debt securities, the interest on which is excludable from gross income of the holder thereof pursuant to the Internal Revenue Code, as amended, if such fund is funded solely from the proceeds of the issuance of such debt securities (or funded in connection with the refinancing of other debt by such debt securities);

(d) liens, pledges, security interests, charges and encumbrances with respect to deposit, brokerage, commodity and other similar accounts to the extent such liens, pledges, security interests, charges and encumbrances do not secure indebtedness for borrowed money other than indebtedness incurred in connection with acquiring securities or other investments deposited in any such account; or

(e) liens, pledges, security interests, charges and encumbrances with respect to any interest, debt or equity, of the Borrower in National Rural Utilities Cooperative Finance Corporation or CoBank, ACB, purchased or otherwise acquired by the Borrower in connection with membership in such entity or any borrowing from such an entity; ~~or (f) The security interests created pursuant to the Payment Agreement Pledge, the Government Securities Pledge Agreements and the Funding Agreement Pledges (as each of such terms is defined in the Indenture).~~

Section 5.11. Emissions Allowances

Except for sales initiated by the Government without the prior consent and knowledge of the Borrower, the Borrower shall not, without first complying with the requirements of Section 8.1, sell, assign or otherwise dispose of (or enter into any agreement therefor) any allowances for emissions or similar rights granted by any governmental authority; ~~provided, however, that the Borrower except in compliance with all applicable RUS Regulations, including without limitation, RUS Bulletin 1717M-2, and any successor regulation. For purposes of measuring the Borrower's compliance with the preceding sentence of this Section 5.11, Section 4(a)(1)(a) of RUS Bulletin 1717M-2 shall not be required to comply with the requirements of Section 8.1 prior to the~~ be deemed to be modified to read as follows: "The Borrower is not in default." The proceeds of any such sale, assignment or other disposition of any SO₂ allowances to the extent such sale or other disposition was contemplated by the financial model filed in the Kentucky Public Service Commission proceeding to approve the Unwind Transaction, and provided further that, in no event shall the Borrower sell, assign or otherwise transfer any SO₂ allowances necessary in any particular calendar year for the Borrower to operate its generating facilities during such year, shall be deposited in the Construction Fund Trustee Account. For such sales initiated by the Government without the prior consent and knowledge of the Borrower, the Borrower shall give RUS, promptly upon receipt thereof, written notice of such sales.

Section 5.12. Renewable Energy Credits

The Borrower shall not, without ~~the prior consent of RUS,~~first complying with the requirements of Section 8.1, sell, assign or otherwise dispose of (or enter into any agreement therefor) (a) any credits received from allowances for emissions or (b) similar rights granted by any governmental authority, in either case which relate to renewable energy, except in compliance with all applicable RUS Regulations, including without limitation, RUS Bulletin 1717M-2, and any applicable RUS Regulations, including without limitation, RUS Bulletin 1717M-2, and any successor regulation. For purposes of measuring the Borrower's compliance with the preceding sentence of this Section 5.12, Section 4(a)(1)(a) of RUS Bulletin 1717M-2 shall be deemed to be modified to read as follows: "The Borrower is not in default." The proceeds of any such sale, assignment or other disposition, shall be deposited in the Construction Fund Trustee Account.

Section 5.13. Fiscal Year

The Borrower shall not, without first complying with the requirements of Section 8.1, change its fiscal year.

Section 5.14. Limits on Variable Rate Indebtedness

During any period in which (a) an Event of Default has occurred and is continuing or (b) the Borrower has not maintained a Credit Rating of Investment Grade, the Borrower shall not, without first complying with the requirements of ~~section~~Section 8.1, increase the outstanding principal amount of indebtedness of the Borrower, the interest rate with respect to which is adjusted or readjusted at intervals of less than two (2) years, to an amount exceeding the amount thereof outstanding on the date of such notice from the RUS.

Section 5.15. Limits on Short-Term Indebtedness

The Borrower shall not, without first complying with the requirements of Section 8.1, on any date permit Short-Term Indebtedness to exceed fifteen percent (15%) of the Borrower's long-term debt and equities (determined in accordance with Accounting Requirements, except that such determination and calculations shall not be made on a consolidated basis and shall not, therefore, take into account the Short-Term Indebtedness, long-term debt and equities of the Borrower's Affiliates and Subsidiaries) as of the end of the fiscal quarter immediately preceding such date. As used in this Section 5.15, "Short-Term Indebtedness" means all indebtedness of, or guaranteed or in effect guaranteed (whether directly or indirectly, contingent or otherwise) against loss in respect thereof to the holder thereof by, the Borrower (other than trade payables) which on the date of original issuance thereof is classified as short-term debt under Accounting Requirements; provided, however, that any indebtedness issued in accordance with a credit agreement or other arrangement with a maturity or expiration date of greater than one year from the date of effectiveness of such credit agreement or arrangement shall not be considered Short-Term Indebtedness at such time as the maturity of expiration of such credit agreements or arrangements is less than one year.

Section 5.16. Limitations on Changing Principal Place of Business

Without prior written notification to the RUS, the Borrower shall not change its principal place of business.

Section 5.17. Limitations on RUS Financed Extensions and Additions

The Borrower shall not extend or add to its System either by construction or acquisition without the prior written approval of RUS if the construction or acquisition is financed or will be financed, in whole or in part, by a RUS loan or loan guarantee.

Section 5.18. Historic Preservation

The Borrower shall not, without approval in writing by the RUS, use any Advance to construct any facility which shall involve any district, site, building, structure or object which is included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior pursuant to the Historic Sites Act of 1935 and the National Historic Preservation Act of 1966.

Section 5.19. Change of Ratings Agency

At any time that only one Rating Agency has assigned a Credit Rating, the Borrower shall not, without first complying with the requirements of Section 8.1, change the Rating Agency then providing the Credit Rating.

Section 5.20. Competitive Transition Charges

The Borrower shall not, without first complying with the requirements of Section 8.1, (i) sell, exchange or otherwise dispose of Competitive Transition Charges, (ii) request the release of Competitive Transition Charges from the lien of the Indenture, or (iii) utilize Competitive Transition Charges as a basis for issuing Obligations under the Indenture, or as basis for a securitized financing outside the Indenture, or withdraw Trust Moneys related to Competitive Transition Charges.

Section 5.21. Limitation on Release of Agreements

The Borrower shall not, without first complying with the requirements of Section 8.1, sell, assign or otherwise dispose of, request the release of or release any contract described in Section ~~5.6~~ 5.6 or any Wholesale Power Contract from the lien of the Indenture.

Section 5.22. ~~Special Construction Fund Trustee Account~~

The Borrower shall deposit the proceeds of loans made or guaranteed by RUS promptly after the receipt thereof in a bank or banks that are insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS. Any account (hereinafter called "~~Special~~

Construction Fund Trustee Account”) in which any such moneys shall be deposited shall be insured by the Federal Deposit Insurance Corporation or other federal agency acceptable to RUS and shall be designated by the corporate name of the Borrower followed by the words “Trustee, ~~Special~~ Construction Fund Trustee Account.” Moneys in any ~~Special~~ Construction Fund Trustee Account shall be used solely for the construction and operation of the System and may be withdrawn only upon checks, drafts, or orders signed on behalf of the Borrower and countersigned by an executive officer thereof.

Section 5.23. Impairment of Contracts

The Borrower shall not (a) materially breach any obligation to be paid or performed by the Borrower under, or (b) take any action which is likely to materially impair the value of, any contract which is subject to the security interest created by the Indenture.

Section 5.24. Limitations on Distributions

Without the prior written approval of RUS, the Borrower shall not in any calendar year make any Distributions to its members or stockholders except as follows:

(a) *Equity above 30%*. If, after giving effect to any such Distribution, the Equity of the Borrower shall be greater than or equal to 30% of its Total Assets; or

(b) *Equity above 25%*. If, after giving effect to any such Distribution, the aggregate of all Distributions made during the calendar year when added to such Distribution shall be less than or equal to 25% of the margins for the year to which the Distribution relates.

Provided however, that in no event shall the Borrower make any Distributions if there is unpaid when due any installment of principal of (premium, if any) or interest on its Notes, if an Event of Default has otherwise occurred and is continuing, or, if, after giving effect to any such Distribution, the Borrower’s current and accrued assets would be less than its current and accrued liabilities and provided, further, that the limitation on Distributions created by this Section 5.24 shall not apply to any payments, rebates, refunds or abatement of power costs made in accordance with a Smelter Contract or made in accordance with any tariff on file with the Kentucky Public Service Commission.

Section 5.25. Limitations on Additional Indebtedness

The Borrower shall not incur, assume, guarantee or otherwise become liable in respect of any debt for borrowed money and Restricted Rentals (including Subordinated Indebtedness) other than the following (“Permitted Debt”):

(a) Additional Obligations issued in compliance with Article V of the Indenture;

(b) Purchase money indebtedness in non-System property, in an amount not exceeding 10% of Net Utility Plant;

(c) Restricted Rentals in an amount not to exceed 5% of Equity during any 12 consecutive calendar month period;

(d) Unsecured lease obligations incurred in the ordinary course of business except Restricted Rentals;

(e) Unsecured indebtedness for borrowed money, up to an aggregate amount of 15% of Net Utility Plant, so long as after giving effect to such unsecured indebtedness, the Borrower's Equity is more than 20% of ~~its~~ Total Assets;

(f) Debt represented by dividends declared but not paid; and

(g) Subordinated Indebtedness approved by RUS; ~~and (h) the Subordinated Mortgage dated as of April 1, 2000 from the Borrower to certain parties in the lease financing of the Green and Wilson units.~~

The Borrower may incur Permitted Debt without the consent of RUS only so long as there exists no Event of Default hereunder and there has been no continuing occurrence which with the passage of time and giving of notice could become an Event of Default hereunder. By executing this Agreement any consent of RUS that the Borrower would otherwise be required to obtain under this Section is hereby deemed to be given or waived by RUS by operation of law to the extent, but only to the extent, that to impose such a requirement of RUS consent would clearly violate federal laws or RUS Regulations.

ARTICLE VI.

EVENTS OF DEFAULT

The following shall be "Events of Default" under this Agreement:

(a) *Representations and Warranties.* Any representation or warranty made by the Borrower in Article II hereof or, in any certificate furnished to the RUS hereunder or in the Loan Documents or in any filing pursuant to RUS Regulations shall be incorrect in any material respect at the time made and shall at the time in question be untrue or incorrect in any material respect and remain uncured;

(b) *Payment.* Default shall be made in the payment of or on account of interest on or principal of any RUS Note when and as the same shall be due and payable, whether by acceleration or otherwise, which shall remain unsatisfied for five (5) Business Days;

(c) *Other Covenants.* Default by the Borrower in the observance or performance of any other covenant or agreement contained in any of the Loan Documents, which shall remain

unremedied for thirty (30) calendar days after written notice thereof shall have been given to the Borrower by the RUS;

(d) *Corporate Existence.* The Borrower shall forfeit or otherwise be deprived of its corporate charter or any franchise, permit, easement, consent or license required to carry on any material portion of its business;

(e) *Other Obligations.* Default by the Borrower in the payment of any obligation, whether direct or contingent, for borrowed money in excess of \$1 million or in the performance or observance of the terms of any instrument pursuant to which such obligation was created or securing such obligation which default shall have resulted in such obligation becoming or being declared due and payable prior to the date on which it would otherwise be due and payable;

(f) *Bankruptcy.* A court having jurisdiction in the premises shall enter a decree or order for relief in respect of the Borrower in an involuntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official, or ordering the winding up or liquidation of its affairs, and such decree or order shall remain unstayed and in effect for a period of ninety (90) consecutive days or the Borrower shall commence a voluntary case under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or under any such law, or consent to the appointment or taking possession by a receiver, liquidator, assignee, custodian or trustee, of a substantial part of its property, or make any general assignment for the benefit of creditors; and

(g) *Dissolution or Liquidation.* Other than as provided in the immediately preceding subsection, the dissolution or liquidation of the Borrower, or failure by the Borrower promptly to forestall or remove any execution, garnishment or attachment of such consequence as shall impair its ability to continue its business or fulfill its obligations and such execution, garnishment or attachment shall not be vacated within thirty (30) days. The term "dissolution or liquidation of the Borrower," as used in this paragraph (hg), shall not be construed to include the cessation of the corporate existence of the Borrower resulting either from a merger or consolidation of the Borrower into or with another corporation following a transfer of all or substantially all its assets as an entirety, under the conditions permitting such actions.

(h) *Indenture.* Any Event of Default as set forth in Section 9.1 of the Indenture and any event (as set forth in such Section 9.1) that with the giving of notice or the passage of time, or both, could become an Event of Default.

ARTICLE VII.

REMEDIES

Upon the occurrence of an Event of Default, then RUS may pursue all rights and remedies available to RUS that are contemplated by this Agreement in the manner, upon the conditions, and with the effect provided in this Agreement, including, but not limited to, a suit for specific performance, injunctive relief or compensatory damages. The RUS is hereby authorized, to the maximum extent permitted by applicable law, to demand specific performance of this Agreement at any time when the Borrower shall have failed to comply with any provision of this Agreement applicable to it. The Borrower hereby irrevocably waives, to the maximum extent permitted by applicable law, any defense based on the adequacy of a remedy at law that might be asserted as a bar to such remedy of specific performance. Nothing herein shall limit the right of the RUS to pursue all rights and remedies available to a creditor at law or in equity following the occurrence of an Event of Default listed in Article VI hereof, or any right or remedy available to the RUS as a Holder of an Obligation under the Indenture. Each right, power and remedy of the RUS shall be cumulative and concurrent, and recourse to one or more rights or remedies shall not constitute a waiver of any other right, power or remedy.

ARTICLE VIII.

MISCELLANEOUS

Section 8.1. Notice to RUS; Objection of RUS

Before undertaking any transaction described in Article V or the schedules attached hereto that requires compliance with the requirements of Section 8.1, the Borrower shall give to the RUS (i) notice in writing describing in reasonable detail the proposed transaction and clearly stating that the transaction is covered by this Section 8.1 and (ii) drafts of any documents to effect such transaction. If the RUS delivers to the Borrower written notice that it objects to the proposed transaction within sixty (60) days (or such shorter period as the parties shall agree to in writing), the Borrower shall not complete the transaction without RUS approval.

Section 8.2. Notices

All notices, requests and other communications provided for herein including, without limitation, any modifications of, or waivers, requests or consents under, this Agreement shall be given or made in writing (including, without limitation, by telecopy) and delivered to the intended recipient at the "Address for Notices" specified below; or, as to nay party, at such other address as shall be designated by such party in a notice to each other party. Except as otherwise provided in this Agreement, all such communications shall be deemed to have been duly given when transmitted by telecopier or personally delivered or, in the case of a mailed notice, upon receipt, in

each case given or addressed as provided for herein. The Address for Notices of the respective parties are as follows:

The Government:

Rural Utilities Service
United States Department of Agriculture
{Room No. ~~4051~~ 5135-S
1400 Independence Avenue, S.W.
{Stop 1510}
Washington, DC 20250
Fax: (202) 720-~~1725~~-9542
Attention: RUS Administrator

With a copy to:

Rural Utilities Service
United States Department of Agriculture
{Room No. 0270}-S
1400 Independence Avenue, S.W.
{Stop: 1568}
Washington, DC 20250
Fax: (202) 720-1401
Attention: Power Supply Division

The Borrower:

Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Fax: (270) 827-2558
Attention: President and Chief Executive Officer

With a copy to:

Sullivan, Mountjoy, Stainback & Miller
100 St. Ann's Building
PO Box 727
Owensboro KY 42302-0727

Fax: (270) 683-6694
Attention: James Miller

Section 8.3. Expenses

To the extent permitted by Law, the Borrower shall pay all costs and expenses of RUS, including reasonable fees of counsel, incurred in connection with the enforcement of the Loan Documents or with the preparation for such enforcement if the RUS has reasonable grounds to believe that such enforcement may be necessary.

Section 8.4. Late Payments

If payment of any amount due hereunder is not received at the United States Treasury in Washington, D.C., or such other location as RUS may designate to the Borrower, within five (5) Business Days after the due date thereof or such other time period as RUS may prescribe from time to time in its policies of general application in connection with any late payment charge (such unpaid amount being herein called the "delinquent amount," and the period beginning after such due date until payment of the delinquent amount being herein called the "late-payment period), the Borrower shall pay to RUS, in addition to all other amounts due under the terms of the RUS Notes and this Agreement, any late-payment charge as may be fixed by RUS Regulations from time to time on the delinquent amount for the late-payment period.

Section 8.5. Filing Fees

To the extent permitted by Law, the Borrower agrees to pay all expenses of RUS (including the fees and expenses of its counsel) in connection with the filing or recordation of all financing statements and instruments as may be required by RUS in connection with this Agreement, including, without limitation, all documentary stamps, recordation and transfer taxes and other costs and taxes incident to recordation of any document or instrument in connection herewith. The Borrower agrees to save harmless and indemnify the RUS from and against any liability resulting from the failure to pay any required documentary stamps, recordation and transfer taxes, recording costs, or any other expenses incurred by the RUS in connection with this Agreement. The provisions of this Section 8.5 shall survive the execution and delivery of this Agreement and the payment of all other amounts due hereunder or due on the RUS Notes.

Section 8.6. No Waiver

No failure on the part of the RUS to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the RUS of any right hereunder preclude any other or further exercise thereof or the exercise of any other right.

Section 8.7. Governing Law

EXCEPT TO THE EXTENT GOVERNED BY APPLICABLE FEDERAL LAW, THE LOAN DOCUMENTS SHALL BE DEEMED TO BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE COMMONWEALTH OF KENTUCKY.

Section 8.8. Holiday Payments

If any payment to be made by the Borrower hereunder shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in computing any interest in respect of such payment.

Section 8.9. Successors and Assigns

This Agreement shall be binding upon and inure to the benefit of the Borrower and the RUS and their respective successors and assigns, provided, however, that the Borrower may not assign or transfer its rights or obligations hereunder without the prior written consent of the RUS.

Section 8.10. Complete Agreement; Amendments

This Agreement and the other Loan Documents are intended by the parties to be a complete and final expression of their agreement. However, RUS reserves the right to waive its rights to compliance with any provision of this Agreement and the other Loan Documents. No amendment, modification, or waiver of any provision hereof or thereof, and no consent to any departure of the Borrower herefrom or therefrom, shall be effective unless approved in writing by RUS in the form of either a RUS Regulation or other writing signed by or on behalf of RUS, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

Section 8.11. Headings

The headings and sub-headings contained in the titling of this Agreement are intended to be used for convenience only and do not constitute part of this Agreement.

Section 8.12. Severability

If any term, provision or condition, or any part thereof, of this Agreement shall for any reason be found or held invalid or unenforceable by any governmental agency or court of competent jurisdiction, such invalidity or unenforceability shall not affect the remainder of such term, provision or condition nor any other term, provision or condition, and this Agreement and the RUS Notes shall survive and be construed as if such invalid or unenforceable term, provision or condition had not been contained herein.

Section 8.13. Right of Set off

Upon the occurrence and during the continuance of any Event of Default, the RUS is hereby authorized at any time and from time to time, without prior notice to the Borrower, to exercise rights of set off or recoupment and apply any and all amounts held or hereafter held, by the RUS or owed to the Borrower or for the credit or account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing hereunder or under the RUS Notes. The RUS agrees to notify the Borrower promptly after any such set off or recoupment and the application thereof, provided that the failure to give such notice shall not affect the validity of such

set off, recoupment or application. The rights of the RUS under this Section 8.13 are in addition to any other rights and remedies (including other rights of set off or recoupment) which the RUS may have. The Borrower waives all rights of set off, deduction, recoupment or counterclaim.

Section 8.14. Schedules and Exhibits

Each Schedule and Exhibit attached hereto and referred to herein is each an integral part of this Agreement.

Section 8.15. Sole Benefit

The rights and benefits set forth in this Agreement are for the sole benefit of the parties thereto and may be relied upon only by them.

Section 8.16. Prior Loan Contracts

It is understood and agreed that with respect to all loan agreements previously entered into by and between RUS and the Borrower, including, without limitation, the Existing Loan Contract, (hereinafter being referred to as "Prior Loan Contracts") the Borrower shall be required, as of the date hereof, to meet affirmative and negative covenants as set forth in this Agreement rather than those set forth in any Prior Loan Contract. As of the date hereof, this Agreement replaces and supersedes any Prior Loan Contract. In the event of any conflict between any provision set forth in the Prior Loan Contract and any provision in this Agreement, the requirements as set forth in this Agreement shall apply.

Section 8.17. Authority of RUS Representatives

In the case of any consent, approval or waiver from the RUS that is required under this Agreement or any other Loan Document, such consent, approval or waiver must be in writing and signed by an authorized RUS representative to be effective. As used in this Section 8.17, "authorized RUS representative" means the Administrator of RUS, and also means a person to whom the Administrator has officially delegated specific or general authority to take the action in question.

Section 8.18. Relation to RUS Regulations

(a) In case of any conflict between the terms of this Agreement and the provisions of the RUS Regulations, the terms of this Agreement shall control.

(b) The RUS Regulations shall apply to the Borrower to the extent and under the conditions expressly set forth in this Agreement (other than in Section 4.11). To the extent this the terms of this Agreement, the Indenture, and the RUS Regulations are silent on an issue relating to System operation, control, maintenance, and accounting, the Borrower will comply with Prudent Utility Practice.

(c) The Borrower recognizes that some RUS Regulations implement Federal statutes or regulatory policies that are not limited to rural electrification but apply to many types of Federal assistance. Nothing herein is intended to, or shall be deemed to, waive the requirements of any Federal statute or regulation that is applicable to the Borrower independently of any requirement made applicable solely by the RUS Regulations.

(d) Subject to paragraphs (b) and (c) above, if on the date of this Agreement, any RUS Regulation conflicts with the terms of this Agreement or the Indenture pursuant to 7 C.F.R. 1710.113(c)(2) (62 F.R. 7721 & 18037 (1997)), the RUS hereby waives compliance by the Borrower with such RUS Regulations.

Section 8.19. Term

This Agreement shall remain in effect until one of the following two events has occurred:

(a) The Borrower and the RUS replace this Agreement with another written agreement; or

(b) All of the Borrower's obligations under this Agreement and the RUS Notes have been discharged and paid.

Section 8.20. Relation to Indenture

The RUS is a party to this Agreement and a Holder of Outstanding Secured Obligations under the Indenture. Both this Agreement and the Indenture govern the relationship between the Borrower and the RUS, and the parties intend that the Indenture and this Agreement independently govern such relationship. Each provision of this Agreement is intended to and shall be fully operative and enforceable as written whether or not the subject matter of any such provision is or is not addressed by the Indenture, or, if so addressed, is addressed in a different way from that set forth in this Agreement.

(Signatures begin on next page.)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, and the Borrower's execution to be attested under seal, as of the day and year first above written.

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name: _____
Title: _____

Attest: _____
Name: _____
Title: _____

[CORPORATE SEAL]

THE UNITED STATES OF AMERICA

By: _____
Name: _____
Title: _____

EXHIBIT A

To the Amended and Consolidated Loan Contract, dated as of ~~[]~~
Between July 1, 2009
between Big Rivers Electric Corporation, Old National Bank,
U.S. Bank National Association, and the United States of America

LOCKBOX AGREEMENT

This **LOCKBOX AGREEMENT** (this "Agreement") is entered into as of [], 2009, by and among ~~[]~~ Big Rivers Electric Corporation, Old National Bank, as Lockbox Bank (the "Bank"), U.S. Bank National Association, not individually or personally but solely in its capacity as trustee (the "Trustee") under the Indenture (defined below) and the United States of America, acting by and through the Administrator of the Rural Utilities Service (together with any agency succeeding to the powers and rights of the Rural Utilities Service, the "RUS").

WHEREAS, the Company, as grantor, and the Trustee have entered into an Indenture, dated as of [], 2009 (such indenture, as from time to time amended, supplemented or restated, the "Indenture"), whereby, among other things, the Company has granted a security interest in certain contracts of the Company for the purchase or sale of, and transmission of, electric power and energy by or on behalf of the Company;

WHEREAS, the Company has entered into wholesale power contracts (the "Wholesale Power Contracts") as listed on ~~Schedule I~~ Exhibit D to the Loan Contract (as hereinafter defined);

WHEREAS, under the Indenture, the Company has also granted a security interest in the proceeds of the "Trust Estate" (as defined in the Indenture), including all proceeds of the Wholesale Power Contract;

WHEREAS, the Company and the RUS, have entered into an Amended and Consolidated Loan Contract, dated as of [], 2009 (such loan contract, as from time to time amended, supplemented or restated, the "Loan Contract") in which the Company has agreed, upon the occurrence of certain conditions and at the request of the RUS, to deposit cash proceeds of the Trust Estate as provided in the Indenture, the Loan Contract and this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. Definitions. Terms used in this Agreement with initial letters capitalized that are defined in the Indenture and are not otherwise defined herein have the meanings assigned to them in the Indenture. In addition, the following terms have the meanings assigned to them below:

(a) "Applicable Period" shall mean any period commencing on the date the Company receives notice from the RUS in writing ~~that a Highest Oversight Period (as defined pursuant to Section 4.12 of the Loan Contract) exists,~~ and ending on the date the Company

receives notice from the RUS in writing that such ~~Highest Oversight Period~~period no longer exists; and

(b) “Pledged Revenues” shall mean all cash proceeds (as defined in the Uniform Commercial Code) of the Trust Estate received or receivable by the Company in which the Indenture creates a security interest pursuant to the Uniform Commercial Code that are not deposited or required to be deposited with the Trustee pursuant to the Indenture; provided, however, to ease administrative burdens of the Company, Pledged Revenues shall not include cash proceeds (other than cash proceeds from the Wholesale Power Contracts) in an amount equal to or less than \$ 10,000 from any Person during any one month period.

Section 2. Lockbox Account. There is hereby created and established with the Bank a special account to be titled the “Big Rivers Electric Corporation Special Cash Account” (the “Lockbox Account”), account number []. The money deposited into the Lockbox Account, together with all investments thereof and investment income therefrom, shall be applied solely as provided in this Agreement.

Section 3. Account Subject to Pledge of the Indenture. Amounts deposited into the Lockbox Account shall constitute a portion of the Trust Estate pledged pursuant to the Indenture for the equal and ratable security of all the Outstanding Secured Obligations in accordance with and as provided by the terms of the Outstanding Secured Obligations and the Indenture. The Bank shall hold all such amounts deposited in the Lockbox Account pursuant to this Agreement as agent of the Trustee to perfect the lien of the Indenture therein. Except as otherwise permitted under Section 12, the Lockbox Account shall not be closed without the written consent of the RUS.

Section 4. Partial Waiver of Right of Set Off. Except to the extent of any amounts due to the Bank on account of items credited to the Lockbox Account prior to collection that are not subsequently collected, the Bank hereby waives, and agrees that it shall not exercise, any right of set off or any banker’s lien with respect to the Lockbox Account; provided, however, that nothing in this Agreement shall be deemed to constitute a waiver by the Bank of its right of set off or any banker’s lien with respect to any other account of the Company.

Section 5. Payments to Be Made to Account. During any Applicable Period, the Company shall direct each of its members and each other Person obligated to make any payment to the Company of Pledged Revenues to make such payments to the Bank at the address or in such other manner as specified in Section 6 for deposit into the Lockbox Account. The Company agrees not to make, cause or permit to be made any deposits of moneys other than Pledged Revenues into the Lockbox Account. The Company shall use its best efforts to cause its members and each other Person obligated to make any payment of Pledged Revenues to make such payments in accordance with the provisions of this Agreement.

Section 6. Manner of Payment

(a) During any Applicable Period, payments of Pledged Revenues made by mail shall be mailed to:

Reference: Big Rivers Electric Corporation Special Cash Account

or to such other address as may be specified by the Bank to the Company at least thirty (30) days before the effective date of such change. During any Applicable Period, electronic payments of Pledged Revenues shall be made in the following manner:

[]

All such payments of Pledged Revenues shall be accompanied by such references or other instructions to the Bank to deposit such payments in the Lockbox Account. The Bank shall have no responsibility or liability for failing to deposit any moneys in the Lockbox Account which are not accompanied by such references or other instructions to deposit such moneys in such account.

(b) All such payments received by the Bank shall be deposited into the Lockbox Account and held subject to the provisions hereof. The Bank is hereby authorized, empowered and directed by the Company to deposit all funds received as described in Section 6(a) into the Lockbox Account and to make all necessary endorsements and to take all other necessary actions to carry out the purposes of this Agreement. The Company hereby waives notice of presentment, protest and non-payment of any instrument so endorsed.

(c) During any Applicable Period, the Company shall promptly, and no event later than the Business Day following the receipt thereof, remit to the Bank in accordance with Section 6(a) for deposit into the Lockbox Account any Pledged Revenue that is received by the Company.

Section 7. Accounting. No less frequently than once each month, the Bank shall deliver by mail a statement to the Company, with copies to the Trustee, the RUS and such other Persons as may be designated by the Company, which shall identify the date, maker and amount of each deposit to the Lockbox Account, and the date, payee and amount of each withdrawal or other debit to the Lockbox Account.

Section 8. Disbursements.

(a) Upon written demand of the Trustee, accompanied by a statement that there has occurred and is continuing under the Indenture an Event of Default, and continuing until such demand is rescinded, the Bank shall pay to the Trustee all amounts then or thereafter on deposit in the Lockbox Account, to be applied by the Trustee as provided under the Indenture. Such amounts so paid shall be held and administered by the Trustee in accordance with general terms and conditions set forth in the Indenture.

(b) So long as the Bank shall not have received a written demand from the Trustee under paragraph (a) above, on the fifth (5th) Business Day preceding the end of each month during the Applicable Period, the Bank shall withdraw and pay (or deposit in another, unrestricted account, at the direction of the appropriate party listed below) from the amounts on deposit in the Lockbox Account the following amounts in the order indicated to the extent funds are available in the Lockbox Account:

(1) to the Bank, the amount of fees and expenses that are then payable to the Bank under Section 9;

(2) to the Trustee, the amount certified by the Trustee as the amount of any fees or expenses that are then payable to the Trustee under the Indenture;

(3) to the Company, the amount specified in a written request as the amount of ordinary and necessary payments due from the Company for the following month, including, without limitations, payments for operations and regularly scheduled debt service;

(4) to the Trustee, the amount certified by the ~~Trustee~~Company as the amount necessary to provide for the payment of the principal and interest then due or (based on receipt by the Trustee on a monthly basis of a proportional amount of principal and accrued interest) becoming due on the Outstanding Secured Obligations during the following month, for deposit as Trust Moneys under the Indenture;

(5) to the Company, the amount specified in a written request as the amount of expenditures approved for the following month in accordance with a capital expenditure budget approved by the RUS;

(6) to the Company, the amount specified in a written request as the amount of expenditures for the following month approved in writing by the RUS for other purposes; and

(7) to the payment of any amounts due under Obligations to maintain the value of reserve funds established and maintained in connection with debt securities (A) secured by a pledge of certain Obligations, (B) issued on behalf of the Company and (C) with respect to which an opinion was delivered on the date of the issuance of such securities to the effect that the interest on such securities is excluded from the gross income of the holder of such securities pursuant to the Internal Revenue Code, as amended.

(c) Any amounts remaining on deposit in the Lockbox Account on the day following the end of the month in which (i) a ~~Highest Oversight~~Applicable Period no longer exists (as evidenced by an Officers' Certificate and a notice from the RUS to such effect) or (ii) this Agreement terminates pursuant to Section 13, shall be paid to the Company in accordance with, and upon receipt of, a written request, to be used for any lawful purpose.

(d) Pending disbursements of the amounts on deposit in the Lockbox Account, the Bank shall promptly invest and reinvest such amounts in the Defeasance Securities specified in any Company Order or in a mutual fund consisting of Defeasance Securities, or in such other investments as may be approved in writing by the RUS.

(e) Any amounts deposited in the Lockbox Account that do not constitute Pledged Revenues, as identified to the Bank in writing by either of the RUS or the Trustee, shall be

promptly paid to the Company (provided that during any period described in paragraph (a) above, in which case such amounts so identified shall be paid to the Trustee). The Company agrees to promptly notify both of the Trustee and the RUS of any deposits into the Lockbox Account of any amounts not constituting Pledged Revenues.

(f) The RUS agrees that, so long as a ~~Highest Oversight~~ Applicable Period exists, it shall promptly respond to any request made by the Company for expenditures pursuant to this Section. If the RUS has not responded within five (5) days (during which the offices of the RUS are open) of the receipt by the RUS of a written request for expenditures, such request will be deemed to have been approved by the RUS. In disbursing any such amounts that are subject to RUS approval, the Bank shall be able to conclusively rely on the Company's statement in writing that the RUS has approved such expenditure in writing or has been deemed to have approved such expenditure.

Section 9. Fees and Expenses of Bank. The Company agrees

(a) to pay to the Bank from time to time such compensation as may be specifically agreed upon with the Bank and, absent specific agreement, reasonable compensation for 0 services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(b) except as otherwise expressly provided herein, to reimburse the Bank upon its request for all reasonable expenses, disbursements and advances incurred or made by the Bank in accordance with any provision of this Agreement (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Bank's negligence or bad faith; and

(c) to indemnify the Bank for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this Agreement, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

All such payments and reimbursements shall be made with interest at the then prevailing prime rate of the Bank.

Section 10. Certain Rights of Bank.

(a) The Bank undertakes to perform such duties and only such duties as are specifically set forth in this Agreement and no implied covenants or obligations shall be read into this Agreement against the Bank. The Bank makes no representation or warranty as to the priority of any claim or the status, in the event of any insolvency, bankruptcy or other similar proceeding affecting the Company, of amounts held in the Lockbox Account or paid therefrom.

(b) In the absence of bad faith on its part, the Bank may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any certificates or opinions furnished to the Bank and appearing to conform to the requirements of this

Agreement. The Bank shall have no liability for actions taken pursuant to this Agreement' other than as a result of its gross negligence or willful misconduct.

(c) The Bank may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order approval or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties and shall not be required to verify the accuracy of any information or calculations required to be included therein or attached thereto. Any request or direction of the Company mentioned herein shall be sufficiently evidenced by a written request and any resolution of the Board of Trustees may be sufficiently evidenced by a Board Resolution

(d) Whenever in the administration of this Agreement, the Bank shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Bank (unless other evidence is herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate.

(e) The Bank may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(f) The Bank may execute any of the powers hereunder or perform any duties hereunder either directly or by ~~or~~ through agents or attorneys and shall not be liable for the negligence or misconduct of such Persons appointed by the Bank with due care hereunder.

(g) The Bank shall not be liable for any errors of judgment made in good faith by it, unless it shall be proved that the Bank was grossly negligent or reckless in ascertaining the pertinent facts.

(h) The Bank shall not be required to give any bond or surety in respect of the execution of the obligations and trusts set forth in this Agreement or otherwise in respect hereof or of the Lockbox Account.

Section 11. Trustee's Rights, Obligations, Etc. The rights, duties, responsibilities and fees of the Trustee hereunder shall be governed by the provisions of Article IX of the Indenture relating to the Trustee and the indemnities provided for in the Indenture shall include all action by the Trustee taken hereunder.

Section 12. Removal, Resignation, Etc. The Bank may resign at any time upon thirty (30) days written notice to the Company, the Trustee and the RUS. The Company may remove the Bank, with the written consent of the RUS, upon thirty (30) days written notice to the Bank, the Trustee and the RUS. The RUS may remove the Bank upon thirty (30) days written notice to the Bank, the Company and the Trustee. Upon any such resignation or removal, the Company shall select another financial institution, with the approval of the RUS, with which to enter into a lockbox agreement substantially upon the terms contained in this Agreement and otherwise upon such terms as shall be permitted or required by the RUS. In the event the Company does not select a financial institution approved by the RUS, the RUS shall select such financial institution.

Section 13. Amendments with Consent of the RUS. Even though this Agreement establishes rights for the benefit of Holders of the Outstanding Secured Obligations, the terms, conditions and requirements of this Agreement are in addition to those found in the Indenture and have been required solely by the RUS. Accordingly, this Agreement can be terminated, amended, modified or supplemented in any way by the Company with the consent of only the RUS and without the consent of the Bank, the Trustee or the Holders of the Outstanding Secured Obligations; provided, however that no amendment, modification or supplement to the obligations or rights of the Bank or the Trustee, or otherwise adversely affecting the Bank or the Trustee, shall be effective as to the Bank or the Trustee without the prior written consent of the Bank or the Trustee, or both, as the case may be. This Agreement shall automatically terminate on the date on which the RUS is no longer a Holder of any Outstanding Secured Obligation.

Section 14. Exculpation of the RUS. The RUS shall have no obligation or liability to any party to this Agreement.

Section 15. Benefits of Agreement. Nothing in this Agreement, express or implied, shall give to any Person, other than the parties hereto, and their successors hereunder and any separate trustee or co-trustee appointed under Section 9.14 of the Indenture, any benefit or any legal or equitable right, remedy or claim under this Agreement.

Section 16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky.

Section 17. Counterparts. This Agreement may be executed in any number of counterparts, each of which so executed to be an original, but all such counterparts shall together constitute but one and the same instrument.

Section 18. Specific Performance. Each of the Trustee and the RUS is hereby, to the maximum extent permitted by applicable law, to demand specific performance of this Agreement at any time when the Company shall have failed to comply with any provision of this Agreement applicable to it. The Company hereby irrevocably waives, to the maximum extent permitted by applicable law, any defense based on the adequacy of a remedy at law that might be asserted as a bar to such remedy of specific performance.

Section 19. Waiver. No failure on the part of the Trustee, the Bank or the RUS to exercise, and no delay in exercising, any right hereunder, under the Indenture or under the Loan Contract, shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder or thereunder preclude any other or further exercise thereof. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

Section 20. Further Assurances. The Company agrees, at the cost and expense of the Company, to execute and deliver and file and record such further documents or instruments as the Trustee, the RUS or the Bank may reasonably request in order to carry out or confirm the respective rights of the Trustee, the RUS and the Bank under this Agreement.

Section 21. Entire Agreement. This written Agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous,

or subsequent oral agreements of the parties. There are no unwritten oral agreements between parties.

[Signatures on next page.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

{OLD NATIONAL BANK}
as Lockbox Bank

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name: _____
Title: _____

~~{~~ U.S. BANK NATIONAL ASSOCIATION
as Trustee under the Indenture identified herein

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

THE UNITED STATES OF AMERICA

By: _____
Acting Administrator For The Rural Utilities
Service
Name: _____

Title: _____

EXHIBIT B

To the Amended and Consolidated Loan Contract dated as of ~~1~~ July 1, 2009 between Big Rivers Electric Corporation and United States of America

Equal Opportunity Contract Provisions

During the performance of this contract, the Borrower agrees as follows:

(a) The Borrower shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Borrower shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Borrower agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(b) The Borrower shall, in all solicitations or advertisements for employees placed by or on behalf of the Borrower, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, or national origin.

(c) The Borrower shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the, said labor union or workers' representative of the Borrower's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Borrower shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The Borrower shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and shall permit access to its books, records and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

(f) In the event of the Borrower's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in said Executive Order or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law.

(g) The Borrower shall include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to ~~section~~Section 204 of Executive Order 12246, dated September 24, 1965, so that such provisions shall be binding upon each subcontractor or vendor. The Borrower shall take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

EXHIBIT C

To the Amended and Consolidated Loan Contract dated as of ~~1, 2008~~ July 1, 2009
between Big Rivers Electric Corporation and United States of America

Description of Rating Agency Services

- (a) Comprehensive credit evaluation and assignment of an initial long term credit rating;
- (b) Ongoing surveillance of Big Rivers Electric Corporation's ("BR's") rating, including an annual meeting with senior ~~Standard & Poor's~~ ratings agency analysts, and a full credit report published annually;
- (c) Annual presentation by senior ~~Standard & Poor's~~ ratings agency analysts on BR's credit rating to BR's Board of Directors, if so requested;
- (d) Annual presentation by senior ~~Standard & Poor's~~ ratings agency analysts on BR's credit rating to the RUS, if so requested by the RUS; and
- (e) Furnish to the RUS copies of any written reports given to ~~AECBR~~.

EXHIBIT D

Wholesale Power Contracts

1. Wholesale Power Contract made as of October 14, 1977, between the Borrower and Jackson Purchase Rural Electric Cooperative Corporation.
2. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Meade County Rural Electric Cooperative Corporation.
3. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Kenergy Corp. (successor by consolidation to Henderson Union Rural Electric Cooperative Corporation).
4. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Kenergy Corp. (successor by consolidation to Green River Electric Corporation).
5. Agreement dated October 12, 1974 by and between the Borrower and Kenergy Corp. (successor by consolidation to Henderson-Union Electric Corporation).
6. Agreement dated October 12, 1974 by and between the Borrower and Kenergy Corp. (successor by consolidation to Green River Electric Corporation) as amended and restated by an Agreement dated February 16, 1988.
7. Agreement dated as of July 15, 1998 between the Borrower and Kenergy Corp. (successor by consolidation to Green River Electric Corporation and Henderson-Union Electric Cooperative Corp.), Jackson Purchase Electric Cooperative Corporation and Meade County Rural Electric Cooperative.

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Big Rivers, Grantor to U. S. Bank National Association,
Trustee, Indenture – First Mortgage Obligations**

Informational Filing of June 24, 2009

Summary of changes to Indenture since filing of October 9, 2009

Virtually all the changes made in the form of draft Indenture dated September 11, 2008 (last draft filed with the Commission) resulted from negotiations with the RUS, Big Rivers' largest secured creditor.

1. The definition of "Cut-Off Date" is the date after which capital improvements title to which vests in Big Rivers will constitute Property Additions.
2. Definition of "Outstanding". Change required by RUS to additional requirement of "nationally recognized" to Independent Accountants.
3. Definition of "Permitted Exceptions", paragraph E. Changed required by RUS. Makes exception narrower.
4. The Definition of "Property Additions" was amended to include certain assets, notably the scrubber at Plan Coleman, which are included in the assets over which Big Rivers will assume control after the unwind. While Big Rivers has continuously owed there additions, the existing language in paragraph C under Property Additions would have precluded their use in connection with the issuance of Additional Obligations. The change to the definition of "Cost to the Company" is consistent with this.
5. Definition of "Responsible Officer". Change requested by Indenture Trustee.
6. Section 3.9 B
Change requested by Indenture Trustee.
7. Section 4.2 B
Change resulted from negotiations with RUS. There will be no "carry forward" of an amount of Bondable Additions available for the issuance of Additional Obligations or release of Trust Moneys.
8. Sections 4.9 C and 4.10
These changes were made at request of RUS. Makes issuance of Additional Obligations slightly more restricted in certain circumstances.
9. Section 7.1 B (5)
Change tightens requirements for a legal defeasance of Obligations.
10. Section 8.1 C and E
Increase percentage of Obligation Holders required to declare default.

11. Section 8.2
Increased percentage of Obligation Holders required to accelerate Obligations.
12. Section 8.23
Changes requested by RUS. Big Rivers believes change to be non-substantive.
13. Section 9.3 I
Increases percentage of Obligation Holders required to notify Trustee of default.

June 22, 2009

**BIG RIVERS ELECTRIC CORPORATION,
GRANTOR,**

to

**U.S. BANK NATIONAL ASSOCIATION,
TRUSTEE**

INDENTURE

Dated as of [_____] , 2008 July 1, 2009

FIRST MORTGAGE OBLIGATIONS

- THIS INSTRUMENT IS A MORTGAGE.
- THIS INSTRUMENT GRANTS A SECURITY INTEREST IN A TRANSMITTING UTILITY.
- BIG RIVERS ELECTRIC CORPORATION IS A TRANSMITTING UTILITY.
- THIS INSTRUMENT CONTAINS PROVISIONS THAT COVER REAL AND PERSONAL PROPERTY, AFTER-ACQUIRED PROPERTY, FIXTURES AND PROCEEDS.
- FUTURE ADVANCES AND FUTURE OBLIGATIONS ARE SECURED BY THIS INSTRUMENT.
- THE MAXIMUM ADDITIONAL INDEBTEDNESS WHICH MAY BE SECURED HEREUNDER IS \$3,000,000,000.
- THE TYPES OF PROPERTY COVERED BY THIS INSTRUMENT ARE DESCRIBED ON PAGES 1 THROUGH 7 AND EXHIBIT A.
- THE ADDRESSES AND THE SIGNATURES OF THE PARTIES TO THIS INSTRUMENT ARE STATED ON PAGES 38, 154 AND 155.

STATE TAXPAYER'S IDENTIFICATION NUMBER: 25757

FEDERAL TAXPAYER'S IDENTIFICATION NUMBER: 61-0597287

THIS INDENTURE WAS PREPARED BY JAMES M. MILLER OF SULLIVAN, MOUNTJOY,
STAINBACK & MILLER, P.S.C., 100 ST. ANN BUILDING, OWENSBORO, KENTUCKY 42303,
ATTORNEY FOR BIG RIVERS ELECTRIC CORPORATION.

Signed: _____

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THIS INDENTURE, dated as of {_____}, 2008~~July 1, 2009~~ (hereinafter called the “**Indenture**”), is between **BIG RIVERS ELECTRIC CORPORATION**, a cooperative corporation organized under the laws of the Commonwealth of Kentucky, as Grantor (hereinafter called the “**Company**”), and **U.S. BANK NATIONAL ASSOCIATION**, as Trustee (hereinafter called the “**Trustee**”).

RECITALS OF THE COMPANY

The Company duly authorized and issued the Existing Obligations and has duly authorized the creation, execution and delivery from time to time after the date hereof of its notes, bonds and other obligations for the payment of money as hereinafter provided, issuable in one or more series (hereinafter called the “**Additional Obligations**”; the Existing Obligations and the Additional Obligation hereinafter called, collectively; the “**Obligations**”); and to secure the Obligations and provide for the authentication of the Existing Obligations on the date hereof and the authentication and delivery of the Additional Obligations by the Trustee from time to time, the Company has duly authorized the execution and delivery of this Indenture.

All things have been done which are necessary to make the Existing Obligations, and when duly executed and issued by the Company and authenticated and delivered by the Trustee hereunder, the Additional Obligations, the valid obligations of the Company, and to constitute this Indenture a valid indenture of mortgage, security agreement and financing statement and contract for the security of the Obligations, in accordance with the terms of the Obligations and this Indenture.

GRANTING CLAUSES

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that, to secure the payment of the principal of (and premium, if any) and interest on the Outstanding Secured Obligations and the performance of the covenants therein and herein contained and to declare the terms and conditions on which the Outstanding Secured Obligations are secured, and in consideration of the premises and of the purchase of, or loans and other obligations evidenced by, the Obligations, the Company by these presents does grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over, hypothecate and confirm to (and does create a security interest in favor of) the Trustee, and its successors and assigns in the trust created hereby, in trust with power of sale, all property, rights, privileges and franchises of the Company (except any Excepted Property) of every kind and description, real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired by the Company, wherever located, and including all and singular the following described property, subject in all cases to Sections 5.2 and 11.2B and to the rights of the Company under this Indenture, including the rights set forth in Article V:

GRANTING CLAUSE FIRST

A. All fee and leasehold estates and other interests in real property described in Exhibit A attached hereto, subject in each case to the restrictions, exceptions, reservations, terms,

conditions, agreements, leases, subleases, covenants, limitations, interests and other matters of record on the date hereof; and

B. All fixtures, easements, permits, licenses and rights-of-way constituting real property and all other interests in real property of the Company: and

C. All rights and interests of the Company in all contracts (i) that relate to the ownership, operation or maintenance of any electric generation, transmission or distribution facility owned, whether solely or jointly, by the Company, (ii) that constitute Qualified EPC Contracts, (iii) for the management or operation of all or substantially all of the System, (iv) for the purchase or sale of electric power and energy by the Company and having an original term in excess of one (1) year, (v) for the transmission of electric power and energy by or on behalf of the Company and having an original term in excess of one (1) year, and (vi) for pooling or other power supply arrangements and having an original term in excess of one (1) year, including the contracts listed on Exhibit B attached hereto, and including any amendments, supplements, restatements, consolidations and replacements of any such contracts, but excluding any such contracts (a) for the purchase of electric power or energy by the Company for which the seller has no recourse, directly or indirectly, to the general credit of the Company, or (b) for the resale of the electric power or energy purchased pursuant to a contract described in the immediately preceding clause (a).

GRANTING CLAUSE SECOND

All other property, rights, privileges and franchises of the Company of every kind and description, real, personal or mixed, tangible or intangible, whether now owned or hereafter acquired by the Company, wherever located, including, without limitation, goods (including equipment, materials and supplies, but excluding electricity), accounts, general intangibles (but excluding contracts, contract rights and associated general intangibles (except contracts of the type subjected to the lien of this Indenture by Subdivision C of Granting Clause First and those described in Exhibit B), Trust Moneys, Competitive Transition Charges, and real property and interests in real property located in any of the states and counties in which any property described in Subdivision A or B of Granting Clause First is located, but excluding Excepted Property, it being the intention hereof that all of such property, rights, privileges and franchises now owned by the Company or acquired by the Company after the date hereof (other than Excepted Property) shall be as fully embraced within and subjected to the lien hereof as if such property were specifically described herein.

GRANTING CLAUSE THIRD

Also any Excepted Property that may, from time to time hereafter, by delivery or by writing of any kind, be subjected to the lien hereof by the Company or by anyone on its behalf; and the Trustee is hereby authorized to receive the same at any time as additional security hereunder. Such subjection to the lien hereof of any Excepted Property as additional security may be made subject to any reservation, limitation or condition which shall be set forth in a written instrument executed by the Company or the person so acting on its behalf or by the Trustee respecting the ownership, use and disposition of such property or the proceeds thereof.

GRANTING CLAUSE FOURTH

Together with the following (other than Excepted Property): all and singular the tenements, hereditaments and appurtenances belonging or in anywise appertaining to the aforesaid property or any part thereof, with the reversion and reversions, remainder and remainders and all the rents, issues, profits, revenues and other income, products and proceeds of the property subjected or required to be subjected to the lien of this Indenture, all buildings, improvements, plants, systems, works, structures, electric power plants, stations and substations, powerhouses, electric transmission and distribution lines and systems, conduits, towers, poles, wires, cables, meters, office buildings, warehouses, garages, sheds, shops, and all other structures and buildings, machinery, engines, boilers, dynamos, generators, turbines, fuel handling and transportation facilities and devices, air and water pollution control and sewage and solid waste disposal facilities, transformers, electric and mechanical appliances, tools and other equipment, apparatus, appurtenances, and all other property of any nature appertaining to any of the electric utility plants, systems, business or operations of the Company, whether or not affixed to realty, used in the operation of any of the premises or plants or the System, or otherwise, which are now owned or hereafter acquired by the Company, and all the estate, right, title and interest of every nature whatsoever, at law as well as in equity, of the Company in and to the same and every part thereof including, without limitation, the aforementioned property located in the Counties of Breckinridge, Caldwell, Crittenden, Daviess, Hancock, Henderson, Hopkins, Livingston, Lyon, McCracken, McLean, Meade, Muhlenberg, Ohio, Union and Webster in the Commonwealth of Kentucky.

EXCEPTED PROPERTY

There is, however, expressly excepted and excluded from the foregoing Granting Clauses and the lien and operation of this Indenture the following described property of the Company, now owned or hereafter acquired (herein sometimes referred to as “**Excepted Property**”):

A. all cash on hand or in banks or other financial institutions (excluding such cash to the extent it constitutes proceeds of the Trust Estate in which the security interest created by this Indenture is perfected pursuant to the Uniform Commercial Code, for so long as such perfection continues, and also excluding cash deposited or required to be deposited with the Trustee pursuant to this Indenture) claims, choses in action and judgments, all contracts, contract rights and associated general intangibles (except to the extent subjected to the lien of this Indenture pursuant to Granting Clause Second), Stock (including any interest of the Company in the CFC or in CoBank, allowances for emissions or similar rights granted by any governmental authority, bonds, notes, repurchase agreements, evidences of indebtedness and other securities and instruments (~~other than as provided in clause U below~~), bills, patents, patent licenses and other patent rights, patent applications, service marks, trade names and trademarks, other than (i) Pledged Securities and any other property referred to in this paragraph A which is specifically described in Granting Clause First or is by the express provisions of this Indenture subjected or required to be subjected to the lien hereof;

B. all automobiles, buses, trucks, truck cranes, tractors, trailers, rolling stock, railcars and similar vehicles and movable equipment, and all parts, tools, accessories and supplies used in connection with any of the foregoing;

C. all vessels, boats, barges and other marine equipment, all airplanes, airplane engines and other flight equipment, and all parts, tools, accessories and supplies used in connection with any of the foregoing;

D. all goods, inventory, wares and merchandise acquired or produced for the purpose of resale in the ordinary course of business, all materials and supplies and other personal property which are consumable (otherwise than by ordinary wear and tear) in their use in the operation of the business of the Company, and all hand and other portable tools, equipment and fuel;

E. all office furniture, equipment and supplies and all data processing, accounting and other computer equipment, software and supplies;

F. all leasehold interests of the Company as lessee (other than for the purposes set forth in paragraph G hereof) under leases for an original term (including any period for which the Company shall have a right of renewal) of less than five (5) years;

G. all leasehold interests of the Company as lessee for office purposes including, but not limited to, leasehold interests of the Company as lessee in connection with the Excepted Property enumerated in paragraphs B, C and E hereof;

H. all timber separated from the land included in the Trust Estate and all coal, ore, gas (natural or otherwise), oil, minerals and other natural resources, mined, extracted or otherwise separated from the land included in the Trust Estate and all electric energy, gas, steam, water and other products generated, produced or purchased;

I. the last day of the term of each leasehold estate (oral or written) and any agreement therefor, now or hereafter enjoyed by the Company and whether falling within a general or specific description of property herein; **PROVIDED, HOWEVER**, that the Company covenants and agrees that it will hold each such last day in trust for the use and benefit of the Holders of the Outstanding Secured Obligations;

J. all permits, licenses, franchises, interests of the Company in leases, as lessee or lessor, contracts, agreements, contract rights and other rights not specifically subjected or required to be subjected to the lien hereof by the express provisions of this Indenture, whether now owned or hereafter acquired by the Company, which by their terms or by reason of applicable law would become void or voidable if granted, conveyed, mortgaged, transferred, assigned or pledged hereunder by the Company or which cannot be granted, conveyed, mortgaged, transferred, assigned or pledged by this Indenture without the consent of other parties whose consent is not secured, or without subjecting the Trustee to a liability not otherwise contemplated by the provisions of this Indenture, or the granting, conveying, mortgaging, transferring, assigning or pledging of which would result in a breach or a default thereof or would permit the termination or cancellation thereof, or which otherwise may not be hereby lawfully and effectively granted, conveyed, mortgaged, transferred, assigned and pledged by the Company;

K. all property, real, personal and mixed, which is:

(i) located outside the Commonwealth of Kentucky;

- (ii) not specifically described in the Granting Clauses;
- (iii) not specifically subjected or required to be subjected to the lien of this Indenture by any provision hereof; and
- (iv) not part of or used or for use in connection with any property specifically subjected or required to be subjected to the lien hereof by the express provisions of this Indenture;

L. all personal property located outside the Commonwealth of Kentucky in which a security interest cannot be perfected solely by the filing of a financing statement under the Uniform Commercial Code;

M. any personal property in which a security interest cannot be lawfully perfected under the laws of the United States or of any state or in which the grant of a security interest would in the Opinion of Counsel be prohibited by applicable law; and

N. All property released from the lien of this Indenture without being sold, exchanged or otherwise disposed of by the Company, as provided in Section 5.2.

PROVIDED, HOWEVER, that if, upon the occurrence of an Event of Default, the Trustee, or any separate trustee or co-trustee appointed under Section 9.14 or any receiver appointed pursuant to statutory provision or order of court, shall have entered into possession of all or substantially all of the Trust Estate, all the Excepted Property described or referred to in the foregoing paragraphs A through H, inclusive, then owned or thereafter acquired by the Company, shall immediately, and, in the case of any Excepted Property described or referred to in paragraphs I, J and L, upon demand of the Trustee or such other trustee or receiver, become subject to the lien hereof to the extent permitted by law, and the Trustee or such other trustee or receiver may, to the extent permitted by law, at the same time likewise take possession thereof, and whenever all Events of Default shall have been cured and the possession of all or substantially all of the Trust Estate shall have been restored to the Company, all such Excepted Property shall again be excepted and excluded from the lien hereof to the extent and otherwise as hereinabove set forth.

The Company may, however, pursuant to Granting Clause Third, subject to the lien of this Indenture any Excepted Property, whereupon the same shall cease to be Excepted Property.

TO HAVE AND TO HOLD all such property, rights, privileges and franchises hereby and hereafter (by Supplemental Indenture or otherwise) granted, bargained, sold, alienated, remised, released, conveyed, assigned, transferred, mortgaged, hypothecated, pledged, set over or confirmed (or in which a security interest is granted) as aforesaid, together with all the tenements, hereditaments and appurtenances thereto appertaining (said properties, rights, privileges and franchises, including any cash and securities hereafter deposited or required to be deposited with the Trustee (other than any such cash which is specifically stated herein not to be deemed part of the Trust Estate) being herein collectively called the “**Trust Estate**”), unto the Trustee, and its successors and assigns in the trust herein created, forever.

SUBJECT, HOWEVER, to (i) Permitted Exceptions and (ii) to the extent permitted by Section 13.6 as to property hereafter acquired (a) any duly recorded or perfected Prior Lien that

may exist thereon at the date of the acquisition thereof by the Company and (b) purchase money mortgages, other purchase money liens, chattel mortgages, conditional sales agreements or other title retention agreements created by the Company at the time of acquisition thereof.

BUT IN TRUST, NEVERTHELESS, with power of sale, for the equal and proportionate benefit and security of the Holders from time to time of all the Outstanding Secured Obligations without any priority of any Outstanding Secured Obligation over any other Outstanding Secured Obligation and for the enforcement of the payment of Outstanding Secured Obligations in accordance with their terms.

UPON CONDITION that, until the happening of an Event of Default and subject to the provisions of Article V, and not in limitation of the rights elsewhere provided in this Indenture, including the rights set forth in Article V, the Company shall have the right to (i) possess, use, manage, operate and enjoy the Trust Estate (other than cash and securities constituting part of the Trust Estate that are deposited with the Trustee), (ii) explore for, gather, cut, mine and produce crops, timber, coal, ore, gas, oil, minerals or other natural resources and products, and to use, consume and dispose of any thereof, and (iii) collect, receive, use, make payments from, transfer, invest, otherwise utilize or employ amounts constituting or derived from the rents, issues, tolls, earnings, profits, revenues, products and proceeds from the Trust Estate or the operation of the property constituting part of the Trust Estate.

Should the indebtedness secured by this Indenture be paid according to the tenor and effect thereof when the same shall become due and payable and should the Company perform all covenants herein contained in a timely manner, then this Indenture shall be canceled and surrendered.

AND IT IS HEREBY COVENANTED AND DECLARED that the Existing Obligations are to be authenticated and delivered, the Additional Obligations are to be secured and the Trust Estate is to be held and applied by the Trustee, subject to the covenants, conditions and trusts herein set forth, and the Company does hereby covenant and agree to and with the Trustee, for the equal and proportionate benefit of all Holders of the Outstanding Secured Obligations, as follows:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1 Definitions.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

A. The terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular.

B. At any time at which this Indenture is qualified or required to be qualified under the TIA, all other terms used herein which are defined in the TIA either directly or by reference therein, have the meanings assigned to them therein.

C. All accounting terms not otherwise defined herein have the meanings assigned to them, and all determinations and computations herein provided for shall be made, in accordance with Accounting Requirements, and the express reference to “Accounting Requirements” with respect to some accounting terms, determinations or computations shall not imply that other accounting terms, determinations and computations shall not be defined or made in accordance with “Accounting Requirements.”

D. All references herein to “Accounting Requirements” refer to such requirements as are in use in the United States at the time of the determination of any computation required or permitted hereunder or, at the option of the Company, such requirements in use on the date of this Indenture.

E. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision unless specifically so stated.

F. The words “include” and “including” shall not be terms of limitation, and shall in all cases, whether or not expressly stated, be read to be “include, without limitation,” and “including, without limitation,” respectively.

G. All references in this instrument to designated Articles, Sections and other subdivisions are to the designated Articles, Sections and other subdivisions of this instrument as originally executed, unless such Article, Section or other subdivision of this instrument shall have been amended, in which case the reference shall be to such Article, Section or other subdivision as so amended.

H. A definition of or reference to any document, instrument or agreement includes any amendment to, or supplement to, or restatement, replacement, modification or novation of, any such document, instrument or agreement unless otherwise specified in such definition or in the contact in which such reference is used.

Certain terms used principally in Article X are defined in that Article.

“**Accountant**” means a Person engaged in the practice of accounting who (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company and who need not be independent, certified, licensed or public.

“**Accounting Requirements**” means the requirements of any system of accounts prescribed by RUS so long as RUS is the Holder of any Outstanding Secured Obligation; provided, however, that if the Company is specifically required by FERC to employ the system of accounts prescribed by FERC, then “Accounting Requirements” means the system of accounts prescribed by FERC; provided, further, however, that if RUS is not a Holder of any Outstanding Secured Obligation or, if such a Holder, RUS does not prescribe a system of accounts applicable to the Company, and the Company is not specifically required by FERC to employ the system of accounts prescribed by FERC, or FERC does not prescribe a system of accounts applicable to the Company, then “Accounting Requirements” means the requirements of a regulatory authority having jurisdiction over the Company or, in the absence thereof, the requirements of generally accepted accounting principles applicable to similar Persons conducting businesses similar to that

of the Company. Generally accepted accounting principles refers to a common set of accounting standards and procedures that are either promulgated by an authoritative accounting rulemaking body or accepted as appropriate due to widespread application in the United States.

“**acquire**” means to acquire by lease, purchase, exchange, construction, merger, consolidation, conveyance, transfer or otherwise. The terms “**acquired**,” “**acquiring**” and “**acquisition**” have meanings correlative to the foregoing.

“**Acquired Facility**” means any property which, within six (6) months prior to the date of its acquisition by the Company, has been used or operated by a Person or Persons other than the Company for a purpose similar to that in which such property has been or is to be used or operated by the Company.

“**Act**” when used with respect to any Holder or Holders has the meaning stated in Section 1.2.

“**Additional Obligations**” has the meaning stated in the first recital of this Indenture and includes any Obligation executed, issued, authenticated and delivered hereunder after the date hereof.

“**Affiliate**” of any specified Person means any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with such specified Person. For purposes of this definition, “**control**” of any specified Person means the power to direct the management and policies of such specified Person, directly or indirectly, whether through the ownership of Stock, by contract or otherwise; and the terms “**controlling**” and “**controlled**” have meanings correlative to the foregoing.

“**Amount of Property Additions**” or “**Amount**” as applied to any Property Additions means the Cost to the Company of such Property Additions or the Fair Value to the Company of such Property Additions, whichever is less.

“**Application**” means an application for the authentication and delivery of Additional Obligations, the advance or issuance of any unadvanced or unissued amount or portion of any Conditional Obligation or series of Conditional Obligations, the release of any part of the Trust Estate, the withdrawal of Deposited Cash or Trust Moneys under any provision of this Indenture and shall consist of, and shall not be deemed complete until there shall have been delivered to the Trustee, such cash, Obligations, securities and documents as are required by such provision to establish the right of the Company to the action applied for. The date of a particular Application shall be deemed to be the date of completion of all such deliveries to the Trustee and not the date on which any particular document is delivered.

“**Appraiser**” means a Person engaged in the business of appraising property of the nature subject to appraisal or otherwise qualified to pass upon the Fair Value to the Company of property or any other valuation of property that may be required pursuant to the provisions of this Indenture who (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company.

“**Authenticating Agent**” when used with respect to any particular series of Obligations means any Person named as Authenticating Agent for such series in the provisions of this Indenture creating such series until a successor Authenticating Agent therefor becomes such pursuant thereto, and thereafter “**Authenticating Agent**” shall mean such successor.

“**Available Margins Certificate**” means an Officers’ Certificate, dated not more than thirty (30) days prior to the date of the related Application, and signed by a Person who is an Accountant (who may be one of the two signing Officers), stating that:

A. the Margins for Interest Ratio is not less than 1.10 for one of the following periods of time: (i) the fiscal year of the Company immediately preceding the fiscal year in which the Application is made, or (ii) if the Application is made within ninety (90) days after the end of a fiscal year, the second preceding fiscal year of the Company or (iii) any twelve (12) consecutive calendar months during the period of fifteen (15) calendar months immediately preceding the first day of the calendar month in which the Application is made **PROVIDED, HOWEVER**, that if any such period of time is one in which this Indenture has not been in effect for the full period of time, then, in lieu of a statement as to the Margins for Interest Ratio, such Available Margins Certificate shall state that the Times Interest Earned Ratio (as defined in the Existing Mortgage) is not less than 1.05 for such period of time; and

B. the Margins for Interest Ratio has been calculated in accordance with the definitions contained in this Indenture **PROVIDED, HOWEVER**, that if the Available Margins Certificate makes a statement as to the Times Interest Earned Ratio and not the Margins for Interest Ratio, stating that the Times Interest Earned Ratio has been calculated in accordance with the provisions of the Existing Mortgage.

If any period of twelve (12) months referred to in an Available Margins Certificate has been a period with respect to which an annual report is required to be filed by the Company pursuant to Section ~~11.4,10.4~~, such Certificate shall be accompanied by a report of an Independent Accountant stating in substance that nothing came to the attention of such Accountant in connection with the audit of such period that would lead such Accountant to believe that there was any incorrect or inaccurate statement in such Available Margins Certificate; **PROVIDED, HOWEVER**, that if the Application is made prior to the date on which an annual report is required to be filed by the Company pursuant to Section ~~11.4,10.4~~, such Certificate shall not be accompanied by such Independent Accountant’s report. Each such report of an Independent Accountant shall include the statement as to independence required by the definition of the term “Independent.”

“**Board of Directors**” means either the board of directors of the Company or any duly authorized committee of such board.

“**Board Resolution**” means a copy of a resolution certified by the Secretary or an Assistant Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

“**Bondable Additions**” means the excess of (i) the Amount of Property Additions over (ii) the amount of Retirements (less credits thereto), computed in accordance with Section 4.2 and

certified as Bondable Additions in the Summary of Certificate as to Bondable Additions then being filed in accordance with Section 4.2.

“Bondable Property” means all Property Additions, and all property owned by the Company on the Cut-Off Date which would constitute Property Additions if acquired after that date (except for the requirement to deliver Title Evidence with respect to such property).

“Book-Entry System” means that system whereby the clearance and settlement of transactions in Obligations held in such system is made through electronic book-entry changes, thereby eliminating the need for physical movement of Obligations, certificates or other instruments.

“Capital Assets Lease” has the meaning stated in Section 6.6.

“Cede & Co.” means Cede & Co., as nominee for DTC, and any successor nominee of DTC.

“Certificate as to Bondable Additions” means an Officers’ Certificate, dated not more than thirty (30) days prior to the date of the related Application, complying with the requirements of Section 4.2 and signed by a Person who is an Engineer or an Appraiser (who may be one of the two signing Officers) and a Person who is an Accountant (who may be one of the two signing Officers); provided, however, that, unless a Person signing as an Engineer, Appraiser or Accountant is also one of the two signing Officers, a Person signing as one of such experts may state that he is signing only with respect to the particular portions of the Certificate as to Bondable Additions that are within his expertise; provided further, however, that all portions of the Certificate as to Bondable Additions must be within the expertise of one of such signing experts.

“Certified Progress Payments” means payments, made by the Company under a Qualified EPC Contract, for generation, transmission and related facilities that will constitute Property Additions upon the performance of such Qualified EPC Contract, that are certified by the Company to the Trustee as the basis for (i) loans or advances under Conditional Obligations under Section 4.6 or (ii) the authentication and delivery of Obligations under Section 4.9.

“CFC” means National Rural Utilities Cooperative Finance Corporation and its successors and assigns.

“CoBank” means CoBank, ACB and its successors and assigns.

“Commission” means the Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or if at any time after the execution of this instrument such Commission is not existing and performing the duties theretofore assigned to it under the TIA, then the body performing such duties at such time.

“Company” means the Person named as the “Company” in the first paragraph of this instrument until a successor corporation shall have become such pursuant to the applicable provisions of this Indenture, and thereafter, except to the extent otherwise contemplated by Section 11.2B, “Company” shall mean such successor Person.

“**Company Consent**,” “**Company Order**” and “**Company Request**” mean, respectively, a written consent, order or request signed in the name of the Company by an Officer of the Company, and delivered to the Trustee.

“**Conditional Obligations**” has the meaning stated in Section 4.6.

“**Cost to the Company**” of Property Additions means the actual cost of acquisition thereof by the Company determined in accordance with Accounting Requirements. Such cost of acquisition shall include capitalized interest and other expenses (including taxes, engineering costs and expenses, legal costs and expenses, allocated administrative charges, insurance, casualties and supervisory fees and expenses) relating to such acquisition and properly chargeable to the Company’s property accounts in accordance with Accounting Requirements. When the consideration for Property Additions consists (in whole or in part) of property or securities, the fair market value of such consideration (as of the date of the transfer and delivery thereof) shall be deemed the equivalent of cash in the determination of cost. The Cost to the Company of any Property Additions acquired as an Acquired Facility shall include the cost to the Company of any franchises, contracts, operating agreements and other rights and Non-Bondable Property simultaneously acquired with, and related to, such Property Additions, for which no separate or distinct consideration shall have been paid or apportioned; and, except in such case, the Cost to the Company of any property, only part of which constitutes Property Additions and all of which is acquired for a single consideration, shall be properly allocated to Property Additions in the Certificate as to Bondable Additions in which such Property Additions are certified to the Trustee. In the case of Property Additions consisting of property owned by a successor corporation at the time it shall have become such by consolidation, merger, conveyance or transfer as provided in Article XI, or acquired by it by such consolidation, merger, conveyance or transfer, the Cost to the Company shall be the gross amount at which such property is recorded in the plant or property accounts (exclusive of any amounts carried in plant or property adjustment accounts) on the books of such successor corporation, or the constituent or predecessor corporation from which such property was acquired, immediately prior to such consolidation, merger, conveyance or transfer, less related reserves for depreciation, depletion, obsolescence, retirements and amortization as of that date. Notwithstanding anything else in this definition, the Cost to the Company of any Property Additions acquired from Western Kentucky Energy Company in the transactions approved by the Kentucky Public Service Commission in Case No. 2007-00455 and consisting of (i) the flue gas desulphurization system and associated equipment at the Company’s Coleman Generating Plant, shall be \$98,500,000 and (ii) property, other than that described in clause (i) of this sentence, shall be the actual costs of acquisition thereof by Western Kentucky Energy Company, assuming the property accounts of Western Kentucky Energy Company constitute “the Company’s property accounts” for purposes of the second sentence of this definition.

“**Credit Enhancement**” means, with respect to any Obligation, the provision of an insurance policy, letter of credit, surety bond or any other undertaking whereby the provider thereof becomes unconditionally obligated to pay when due, to the extent not paid by the Company or otherwise, the principal of and interest on such Obligation or on another obligation the payment on which is (i) secured by such Obligation or (ii) credited against the principal and interest due on such Obligation.

“**Credit Enhancement Obligations**” has the meaning stated in Section 4.7.

“Credit Enhancer” means any Person that, pursuant to this Indenture or a Supplemental Indenture, is designated as a Credit Enhancer and which provides Credit Enhancement.

“Cut-Off Date” means ~~_____~~ December 31, 2008.

“Defaulted Interest” has the meaning stated in Section 3.9.

“Defeasance Securities” means and includes any of the following securities, if and to the extent the same are not subject to redemption or call prior to maturity by anyone other than the holder thereof and are at the time legal for investment of the Company’s funds:

~~A.~~ A. any bonds or other obligations which as to principal and interest constitute direct obligations of, or are unconditionally guaranteed by, the United States of America; and

~~A.~~ B. any certificates or any other evidences of an ownership interest in obligations or in specified portions thereof (which may consist of specified portions of the interest thereon) of the character described in paragraph A above.

“Deposited Cash” has the meaning stated in Section 4.4.

“Distribution” has the meaning stated in Section 13.15.

“DTC” means The Depository Trust Company, a limited purpose trust company organized under the laws of the State of New York, and its successors and assigns.

“DTC Participant” means a broker-dealer, bank or other financial institution for which DTC holds Obligations.

“Engineer” means a Person engaged in the engineering profession ~~or otherwise qualified to pass upon engineering matters who~~ (except as otherwise expressly provided in this Indenture) may be employed by or affiliated with the Company and who need not be independent, certified or licensed.

“Event of Default” has the meaning stated in Section 8.1 or in any Supplemental Indenture. An Event of Default shall “exist” if an Event of Default shall have occurred and be continuing.

“Excepted Property” has the meaning stated in the Granting Clauses hereof.

“Existing Mortgage” means the Third Restated Mortgage and Security Agreement made by and among the Company, United States of America, Ambac Assurance Corporation, Credit Suisse First Boston, U.S. Bank Trust National Association, CFC, PBR-1 Statutory Trust, PBR-2 Statutory Trust, PBR-3 Statutory Trust, FBR-1 Statutory Trust, FBR-2 Statutory Trust and Ambac Credit Products, LLC, dated as of August 1, 2001 as amended by the First Amendment to Third Restated Mortgage and Security Agreement dated as of July 15, 2003.

“Existing Obligations” means the Series 1983 Revenue Bond Obligations, the Series 2001A Revenue Bond Obligations and the RUS Obligations, identified on Exhibit C attached

hereto and authenticated by the Trustee pursuant to Section 3.1, and any amendments, supplements, extensions, replacements or restatements consistent with Section 3.1.

“Fair Value to the Company” means, when used with respect to any particular Property Additions, the fair value thereof to the Company, determined as of the date of the Company’s acquisition of such Property Additions and in accordance with the provisions of this Indenture; PROVIDED, HOWEVER, that the “Fair Value to the Company” of Property Additions that would not constitute Property Additions but for satisfaction of the conditions set forth in clauses (i) and (ii) of paragraph (4C) of the definition of “Property Additions” set forth below shall not exceed the product obtained by multiplying the Fair Value to the Company of such Property Additions (determined as if the remaining term of the leasehold interest to which such property relates were equal to the remaining useful economic life of such property) by a fraction, the numerator of which shall be the remaining term of the leasehold interest to which such property relates (including any periods for which the Company has the option to extend or renew such leasehold interest) as of the date of the Application and the denominator of which is the useful economic life of such Property Additions; and PROVIDED, FURTHER, that the “Fair Value to the Company” of Property Additions that would not constitute Property Additions but for satisfaction of the conditions set forth in clause (ii) of paragraph C of the definition of “Property Additions” shall take into account any irrevocable deposit by the Company of cash or securities (which securities must be rated by any nationally recognized statistical rating organization the higher of (1) “A” or (2) as high as any series of Obligations are rated) in a fund or funds for the exclusive purposes of discharging or securing the Company’s obligations to make rental payments and payments of a fixed price purchase option under any such lease. The Fair Value to the Company of any particular Property Additions subject to a lien constituting a Permitted Exception or permitted by the proviso to Section 5.2D(2), shall be determined as if such property were free of such lien.

“FERC” shall mean the Federal Energy Regulatory Commission, or any agency or other governmental body succeeding to the functions thereof.

“Holder” when used with respect to any Obligation means the Person in whose name such Obligation is registered in the Obligation Register.

“Indenture” means this instrument as originally executed or as it may from time to time be supplemented, modified or amended by one or more indentures or other instruments supplemental hereto (including Supplemental Indentures) entered into pursuant to the applicable provisions hereof or otherwise.

“Independent” when used with respect to any specified Person means such a Person who (i) is in fact independent, (ii) does not have any direct financial interest or any material indirect financial interest in the Company or in any other obligor upon the Obligations or in any Affiliate of the Company or of such other obligor and (iii) is not connected with the Company or such other obligor as an officer, employee, promoter, underwriter, trustee, member, partner, director or person performing similar functions, and (iv) is licensed or certified to the extent required by law and in accordance with standards applicable to the profession in which such Person is engaged. Whenever it is herein provided that any Independent Person’s opinion, report or certificate shall be furnished to the Trustee, such opinion, report or certificate shall state that the signer has read this

definition and that the Person furnishing such opinion, report or certificate is Independent within the meaning thereof

“Interest Charges” for any period means the total interest charges (whether capitalized or expensed) for such period (determined in accordance with Accounting Requirements) related to (i) Outstanding Secured Obligations of the Company, or (ii) outstanding Prior Lien Obligations of the Company, in all cases including amortization of debt discount and premium on issuance, but excluding all interest charges related to Obligations that have actually been paid by another Person that has agreed to be primarily liable for such Obligation pursuant to an assumption agreement or similar undertaking, provided such assumption agreement or similar undertaking is not a mechanism by which the Company continues to make payments to such Person based on payments made by such Person on account of its assumed liability or by which the Company otherwise seeks to avoid having interest related to such Obligations included in the definition of Interest Charges without the economic substance of an assumption of liability on the part of such Person; **PROVIDED, HOWEVER**, that with respect to any calculation of Interest Charges for any period prior to the date hereof, “Interest Charges” means the total interest charges (whether capitalized or expensed) of the Company for such period (determined in accordance with Accounting Requirements) with respect to interest related to indebtedness the obligation for the payment of which was secured under the Existing Mortgage or by a lien against property subject to the Existing Mortgage prior to or on a parity with the lien of the Existing Mortgage, other than “Permitted Encumbrances” (as defined in the Existing Mortgage), in all cases including amortization of debt discount and premium on issuance.

“Interest Payment Date” means the Stated Maturity of an installment of interest on the Obligations.

“Leased Assets” has the meaning stated in Section 6.6.

“Margins for Interest” means, for any period, the sum of (i) net margins of the Company for such period (which, except as otherwise provided in this definition, shall be determined in accordance with Accounting Requirements), which shall include revenues of the Company, subject to possible refund at a future date, but which shall exclude provisions for any (a) non-recurring charge to income, whether or not recorded as such on the Company’s books, of whatever kind or nature (including the non-recoverability of assets or expenses), except to the extent the Board of Directors determines to recover such non-recurring charge in Rates, (b) refund of revenues collected or accrued by the Company in any prior year subject to possible refund; plus (ii) the amount, if any, included in the computation of net margins for accruals for federal and state income and other taxes imposed on income after deduction of interest expense for such period; plus (iii) the amount, if any, included in the computation of net margins for any losses incurred by any Subsidiary or Affiliate of the Company; plus (iv) the amount, if any, the Company actually receives in such period as a dividend or other distribution of earnings or profits of any Subsidiary or Affiliate (whether or not such earnings were for such period or any earlier period or periods); minus (v) the amount, if any, included in the computation of net margins for any earnings or profits of any Subsidiary or Affiliate of the Company; and minus (vi) the amount, if any, the Company actually contributes to the capital of, or actually pays under a guarantee by the Company of an obligation of, any Subsidiary or Affiliate in such period to the extent of any accumulated losses incurred by such Subsidiary or Affiliate (whether or not such losses were for such period or

any earlier period or periods), but only to the extent such losses have not otherwise caused other contributions or guarantee payments to be included in net margins for purposes of computing Margins for Interest for a prior period and such amount has not otherwise been included in net margins.

“Margins for Interest Ratio” means, for any period, (i) the sum of (a) Margins For Interest plus (b) Interest Charges, divided by (ii) Interest Charges.

“Maturity” means, when used with respect to any Obligation, the date on which the principal of such Obligation, or any installment thereof, becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration or acceleration or call for redemption, purchase or prepayment or otherwise; **PROVIDED, HOWEVER**, any obligation to purchase or otherwise acquire any Additional Obligation from its Holder shall not constitute an obligation to pay the principal of such Obligation if so provided in the Supplemental Indenture creating such Additional Obligation.

“Member Cooperative” means any cooperative or other entity that is a member of the Company and any electric distribution cooperative that is a member of a member of the Company.

“Non-Bondable Property” means any property owned by the Company other than Bondable Property.

“Obligation Register” and **“Obligation Registrar”** have the respective meanings stated in Section 3.7.

“Obligations” has the meaning stated in the first recital of this Indenture ~~and includes any Obligation executed, issued, authenticated and delivered hereunder after the date hereof.~~

“Officer” for purposes of any consent, order, certificate, opinion, request or other writing to be delivered hereunder or other action hereunder means the President, Chief Executive Officer, any Executive Vice President, any Senior Vice President, the senior financial officer of the Company or any other officer or employee of the Company authorized by a Board Resolution to give such consent, order, certificate, opinion or other writing, or to make such request or to perform such action.

“Officers’ Certificate” means a certificate signed by any two Officers of the Company. Wherever this Indenture requires that an Officers’ Certificate be signed also by an Engineer or an Accountant or other expert, such Engineer, Accountant or other expert may (except as otherwise expressly provided in this Indenture) be employed by the Company and may be one of the two signing Officers.

“Opinion of Counsel” means a written opinion (or, in the case of matters relating to title, real or personal property records or the existence or priority of liens, a written certificate) of counsel who may (except as otherwise expressly provided in this Indenture) be employed by, or be outside counsel to, the Company and who shall be reasonably acceptable to the Trustee. The acceptance without objection by the Trustee of any Opinion of Counsel shall be conclusive evidence that such counsel is acceptable to the Trustee.

“Original Issue Discount Obligation” means any Obligation declared to be an “Original Issue Discount Obligation” in the Supplemental Indenture establishing the series to which such Obligation belongs.

“Outstanding” when used with respect to Obligations means, as of the date of determination, all Existing Obligations authenticated under this Indenture and all Additional Obligations authenticated and delivered under this Indenture, except:

A. Obligations, or any portion thereof, theretofore canceled by the Trustee or delivered to the Trustee for cancellation or delivered to the Trustee marked surrendered, canceled, satisfied or otherwise evidenced to the Trustee’s satisfaction as paid ~~or tendered for reissue for payment pursuant to any Supplemental Indenture;~~ (and which amount may not be readvanced);

~~B.~~ ~~A.~~ Obligations for whose payment or redemption money, or Defeasance Securities in the necessary amount (such amount to be sufficient in the opinion of ~~an~~ a nationally recognized firm of Independent public accountant Accountants expressed in a certificate signed by such firm and delivered to the Trustee) has been theretofore deposited with the Trustee or any Paying Agent (other than the Company) in trust, for the Holders of such Obligations, **PROVIDED** that, if such Obligations are to be redeemed or prepaid, irrevocable notice of such redemption or prepayment has been duly given or other provision therefor satisfactory to the Trustee has been made;

~~C.~~ ~~A.~~ Obligations which have been paid or replaced pursuant to Section ~~3-73.8~~ or in exchange for or in lieu of which other Obligations have been authenticated and delivered pursuant to this Indenture, other than any such Obligations in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Obligations are held by a bona fide purchaser in whose hands such Obligations are valid obligations of the Company; and

~~D.~~ ~~A.~~ Additional Obligations which have not been sold, pledged or subjected to a security interest and have been surrendered to the Trustee, or which a portion thereof has not been advanced and with respect to such portion any commitment to advance thereunder has terminated, as provided in the last paragraph of Section 4.1.

PROVIDED, HOWEVER, that in determining whether the Holders of the requisite principal amount of Obligations Outstanding or the Obligations Outstanding of a series, as the case may be, have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Obligations owned by the Company or any other obligor upon the Obligations or any Affiliate of the Company or of such other obligor (unless the Company, such obligor and such Affiliate or Affiliates own all Obligations Outstanding under this Indenture or, as to matters relating solely to a particular series, all Obligations Outstanding of such series, as the case may be, determined without regard to this proviso) shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Obligations which are registered in the name of the Company or an Affiliate of the Company of which the Trustee has been given written notice shall be so disregarded; Obligations so owned which have been pledged in good faith may be regarded as Outstanding for such purposes if the pledge establishes to the satisfaction of the Trustee the pledgee’s right to act with respect to such Obligations and that the pledgee is not the Company or any other obligor upon the Obligations or any Affiliate of the Company or of such

other obligor. For purposes of the definition of “Outstanding,” any Credit Enhancer shall not be an obligor upon any Obligation.

“**Outstanding Secured Obligations**” means, as of the date of determination, (i) all Obligations then Outstanding other than Obligations then owned by the Company or any wholly-owned Subsidiary and held in its treasury and (ii) all Obligations, if any, alleged to have been destroyed, lost or stolen which have been replaced or paid as provided in Section ~~3.73.8~~ but whose ownership and enforceability by the Holder thereof have been established by a court of competent jurisdiction or other competent tribunal or otherwise established to the satisfaction of the Company and the Trustee.

“**Paying Agent**” means the Company and any Person authorized by the Company to pay the principal of (and premium, if any) or interest on any Obligations on behalf of the Company.

~~“**Periodic Offering**” means an offering of Additional Obligations of a series from time to time any or all of the specific terms of such Additional Obligations, including the rate or rates of interest, if any, thereon, the Stated Maturity or Maturities thereof and the redemption provision, if any, with respect thereto, are to be determined by the Company or its agents at or about the time of the issuance of such Additional Obligations.~~

“**Performance Agreement**” means a surety or other agreement that guarantees the performance of the party other than the Company under a Qualified EPC Contract or indemnifies the Company and the Trustee against any loss or damage resulting from such other party’s default or non-performance under such contract, which is in the form of a performance or supply bond or other agreement for the purpose of so guaranteeing performance or indemnifying against loss.

~~“**Periodic Offering**” means an offering of Additional Obligations of a series from time to time any or all of the specific terms of such Additional Obligations, including the rate or rates of interest, if any, thereon, the Stated Maturity or Maturities thereof and the redemption provision, if any, with respect thereto, are to be determined by the Company or its agents at or about the time of the issuance of such Additional Obligations.~~

“**Permitted Exceptions**” means:

A. as to the property described in subdivisions A and B of Granting Clause First, the restrictions, exceptions, reservations, terms, conditions, agreements, leases, subleases, covenants, limitations, interests and other matters which are of record on the date hereof, **PROVIDED** that such matters do not materially impair the use of such property for the purposes for which it is held by the Company;

B. ~~A.~~ as to property which the Company may hereafter acquire, any restriction, exception, reservation, term, condition, agreement, lease, sublease, covenant, limitation, interest or other matter which is of record on the date of such acquisition or expressed or provided in the deeds or other instruments under which the Company shall acquire the same, **PROVIDED** that such matters do not materially impair the use of such property for the purposes for which it is held by the Company;

C. ~~A~~-liens for taxes, assessments and other governmental charges not delinquent, and ordinances establishing assessments for sewer, lighting or other local improvement districts;

D. ~~A~~-liens for taxes, assessments and other governmental charges already delinquent which are currently being contested in good faith by appropriate proceedings and with respect to which the Company shall have set aside on its books adequate reserves;

E. ~~A~~-mechanics', workmen's, repairmen's, materialmen's, warehousemen's, contractors', subcontractors' and carriers' liens and other similar liens arising in the ordinary course of business or incident to current construction for charges which (i) are not delinquent or (ii) are being contested in good faith and have not proceeded to judgment and with respect to which the Company shall have set aside on its books adequate reserves, ~~if such reserves are required by Accounting Requirements;~~

F. ~~A~~-liens in respect of judgments or awards (i) with respect to which there exists a stay of execution pending such appeal or proceedings for review and with respect to which the Company shall in good faith currently be prosecuting an appeal or proceedings for review and shall have set aside on its books adequate reserves, or (ii) which are fully covered by insurance;

G. ~~A~~-easements, rights-of-way, licenses and permits granted by the Company under Section 5.1D and similar rights granted by any predecessor in title of the Company;

H. ~~A~~-easements, leases, restrictions, rights-of-way, exceptions, reservations or other rights of others in any property of the Company for streets, roads, expressways, bridges, pipes, pipe lines, railroads, towers, poles, wires, conduits, mains, metering stations, electric, electronic, optical, or other power or signal transmission and distribution lines, telecommunications and telephone lines, the removal of oil, gas, coal, minerals or other natural resources, and other similar purposes, flood rights, river control and development rights, sewage and drainage rights, restrictions against pollution and zoning laws and defects and irregularities in the record evidence of title of any property of the Company, to the extent that such easements, leases, restrictions, rights-of-way, exceptions, reservations, other rights, laws, defects and irregularities do not in the aggregate materially impair the use of the Trust Estate taken as a whole for the purposes for which it is held by the Company;

I. ~~A~~-liens upon lands over which easements, licenses, permits or rights-of-way are acquired by the Company for any of the purposes specified in paragraph H of this definition, securing indebtedness neither created, assumed nor guaranteed by the Company nor on account of which it customarily pays interest;

J. ~~A~~-leases to, or permits for occupancy by, other Persons existing at the date of this instrument affecting property owned by the Company at said date (and future modifications, renewals and extensions thereof);

K. ~~A~~-leases to, and permits for occupancy by, other Persons entered into after the date of this instrument affecting property owned by the Company, whether acquired before or after the date of this instrument, (i) for a term of not more than ten (10) years (including any extensions or renewals) or (ii) if for a term of more than ten (10) years which do not materially impair the Company's use of the property in the conduct of its business;

L. ~~A~~-any lien or privilege vested in any lessor, landlord, licensor, permittor or other Person for rent to become due from, or for other obligations or acts to be performed by, the Company, the payment of which rent or the performance of which other obligations or acts is required under leases, usufructs, subleases, licenses or permits, so long as the payment of such rent or the performance of such other obligations or acts is (i) not delinquent or (ii) being contested in good faith and has not proceeded to judgment and with respect to which the Company shall have set aside on its books adequate reserves;

M. ~~A~~-liens or privileges of any employees of the Company for salary or wages earned but not yet payable;

N. ~~A~~-the burdens of any law or governmental regulation, license or permit requiring the Company to maintain certain facilities or perform certain acts as a condition of the carrying on of the System or the occupancy of or interference with any public lands or any river or stream or navigable waters;

O. ~~A~~-any restrictions, covenants, defects or irregularities in or other deficiencies of title to any easement or rights-of-way of or used by the Company for pipe lines, telephone lines, telecommunications lines, power lines, towers, poles, wires, conduits, mains, electric transmission lines and distribution lines, substations, metering stations, signal transmission and distribution lines or for similar purposes or appurtenances thereto, or other improvements thereon, and to any real estate of or used or to be used by the Company primarily for such easement or right-of-way purposes, if (i) the Company shall have obtained from the apparent owner of the lands or estates therein covered by any such easement or right-of-way a sufficient right, by the terms of the instrument granting such right-of-way, to the use thereof for the construction, operation or maintenance of the lines, appurtenances or improvements for which the same are used or are to be used, (ii) the Company has power under eminent domain, or similar statutes, to remove such deficiencies, or (iii) such deficiencies may be otherwise remedied without undue effort or expense;

P. ~~A~~-rights reserved to, or vested in, any municipality or governmental or other public authority to control or regulate any property of the Company or the use thereof, or to use such property in any manner, **PROVIDED** that such rights do not materially impair the use of such property for the purposes for which it is held by the Company;

Q. ~~A~~-any obligations or duties, affecting the property of the Company, to or established by any municipality or governmental or other public authority in connection with any franchise, grant, license or permit;

R. ~~A~~-any right which any municipal or governmental authority may have by virtue of any franchise, license, contract or statute;

S. ~~A~~-any restrictions, including restrictions on transfer, liens or other matters arising from, permitted by, or required by, any law or governmental regulation relating to environmental matters, **PROVIDED** that such restrictions, liens or other matters do not materially impair the use of such property for the purposes for which it is held and as to any liquidated liens, the Company shall have set aside on its books adequate reserves with respect thereto;

T. ~~A~~-reservations contained in U.S. patents;

U. ~~A.~~ slope and drainage reservations;

V. ~~A.~~ the interests of other Persons, if any, in, or the requirement to make, deposits to secure duties or public or statutory obligations, deposits to secure, or in lieu of, surety, performance, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or similar charges;

W. ~~A.~~ any lien or other matter required by law or governmental regulation as a condition to the transaction of any business or the exercise of any privilege or license, or to enable the Company to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with worker's compensation, unemployment insurance, retirement pensions or other social security, or to share in the privileges or benefits required for companies participating in such arrangements;

X. ~~A.~~ any lien or other encumbrance created or assumed by the Company in connection with the issuance of debt securities the interest on which is excludable from gross income of the holder of such security pursuant to the Internal Revenue Code, as amended, for the purposes of financing or refinancing, in whole or in part, the acquisition or construction of property used or to be used by the Company to the extent such lien covers only such acquired or constructed property and the proceeds upon the sale, transfer or exchange thereof;

Y. ~~A.~~ the pledge of current assets, in the ordinary course of business, to secure current liabilities;

Z. ~~A.~~ liens or other encumbrances securing indebtedness for the payment of which money or Defeasance Securities, maturing as to principal and interest in such amounts and at such times, as are sufficient to provide for the full and timely payment of such indebtedness shall have been irrevocably deposited in trust or escrow with the trustee or other holder of such lien, and liens on such deposited money or Defeasance Securities, **PROVIDED** that if such indebtedness is to be redeemed or otherwise prepaid prior to the stated maturity thereof, any notice requisite to such redemption or prepayment shall have been irrevocably given in accordance with the mortgage or other instrument creating such lien or other encumbrance or irrevocable instructions to give such notice shall have been given to such trustee or other holder;

AA. ~~A.~~ the undivided or other interests of other owners, and liens on such interests, in property owned in common or jointly with the Company or in which the Company has an executory or future interest, and all rights of such co-owners or joint owners in such property, including the rights of such owners in and to such property pursuant to ownership contracts or otherwise;

BB. ~~A.~~ any lien or other encumbrances of any Person arising on account of the ownership in common or jointly with the Company of an undivided or other interest in property which relate to amounts which are not due and payable, or which are being contested by the Company in good faith, and with respect to which the Company shall have set aside on its books adequate reserves; and

CC. ~~A.~~ liens which have been bonded for the full amount of the obligations secured by such lien or for the payment of which the Company has deposited with the Trustee or with an

escrow agent cash or other property with a value equal to the full amount of the obligations secured by such lien.

“Person” means any individual, corporation, cooperative, partnership, joint-venture, association, joint-stock company, limited liability company or partnership, trust, unincorporated organization or government or any agency or political subdivision thereof.

“Place of Payment” when used with respect to the Obligations of any series means a city or any political subdivision thereof in which the Company is by this Indenture required to maintain an office or agency for the payment of the principal of or interest on the Obligations of such series.

“Pledged Securities” has the meaning stated in Section 15.1.

“Pledged Subsidiary” means a Subsidiary of the Company at least a majority of whose outstanding Voting Stock shall at the time be deposited and pledged or required to be deposited and pledged with the Trustee.

“Pledged Wholly-Owned Subsidiary” means any Subsidiary of the Company, all Stock of all classes of which (other than directors’ qualifying shares required to be owned by directors under any applicable law) shall at the time be owned directly by the Company and deposited and pledged or required to be deposited and pledged with the Trustee.

“Predecessor Obligations” of any particular Obligation means every previous Obligation evidencing all or a portion of the same debt as that evidenced by such particular Obligation; and, for purposes of this definition, any Obligation authenticated and delivered under Section 3.8 in lieu of a lost, destroyed or stolen Obligation shall be deemed to evidence the same debt as the lost, destroyed or stolen Obligation.

“Principal Corporate Trust Office” means the location of the Trustee for administration under the Indenture which is 225 Asylum Street, Hartford, CT 06103, or such other location as the Trustee may provide in writing.

“Prior Lien” means any mortgage, lien, security title, charge or encumbrance on or pledge of or security interest in any of the Trust Estate prior to or on a parity with the lien of this Indenture, other than Permitted Exceptions.

“Prior Lien Obligation” means any indebtedness and the evidence thereof, if any, secured by a Prior Lien.

“Property Additions” means property as to which the Company shall provide Title Evidence (which, as to Retired property, may be dated as of a date immediately prior to the Retirement) and which shall be (or, if Retired, shall have been) subject to the lien of this Indenture, which shall be properly chargeable to the Company’s fixed plant accounts under Accounting Requirements (including property acquired to replace property Retired and credited to such accounts) and which shall be acquired by the Company after the Cut-Off Date, including property in the process of construction, insofar as not reflected on the books of the Company with respect to periods on or prior to the Cut-Off Date. For purposes of this definition, property reflected as construction work in progress on the books of the Company on the Cut-Off Date shall be deemed

to have been acquired by the Company after the Cut-Off Date. Property Additions need not consist of a specific or completed development, plan, betterment, addition, extension, improvement or enlargement, but may include construction work in progress and property in the process of purchase insofar as the Company owns such property.

“Property Additions” shall also include:

A. easements and rights-of-way that are useful for the conduct of the business of the Company;

B. ~~A-~~ property located or constructed (i) on, over or under public highways, rivers or other public property under permits, licenses or franchises granted by a governmental body having jurisdiction or by the law of the state in which such property is located or (ii) on, over or under other property subject to easements and rights-of-way described in paragraph A above, if the Company has the right under such permits, licenses, franchises or law under such easements or rights-of-way to maintain and operate such property for an unlimited, indeterminate or indefinite period or for the period, if any, specified in such permit, license, franchise, law, easement or right-of-way and to remove such property at the expiration of the period covered by such permit, license, franchise, law, easement or right-of-way, or if the terms of any such permit, license franchise or law require any public authority having the right to take over such property to pay fair consideration therefor; ~~and~~

C. ~~A-~~ tangible property, which would be properly chargeable to the Company’s fixed plant accounts under Accounting Requirements (including property acquired to replace property Retired and credited to such accounts) if title were vested in the Company, if (i) such property itself (in addition to the Company’s leasehold interest in such property) is subject to the lien of this Indenture and (ii) such property is leased to the Company; ~~and~~

D. tangible property acquired by the Company from Western Kentucky Energy Company in the transactions approved by the Kentucky Public Service Commission in Case No. 2007-00455, including, without limitation, the flue gas desulphurization system and associated equipment at the Company Coleman Generating Plant, regardless of whether the Company has title to such property on the Cut-Off Date.

“Property Additions” shall not include:

(1) good will, going concern value, contracts, agreements, franchises, licenses or permits, whether acquired as such, separate and distinct from the property operated in connection therewith, or acquired as an incident thereto;

(2) any Stock or indebtedness or certificates or evidences of interest therein or other securities;

(3) any property that is to remain subject to a Prior Lien (except to the extent permitted by the proviso to Section 5.2D(2)) after the granting of the related Application or such Lien is described in the Permitted Exception described in paragraph X of the definition of “Permitted Exceptions”; or

(4) except as provided in paragraph C above, any plant or system or other property in which the Company shall acquire only a leasehold interest, or any betterments, extensions, improvements or additions (other than movable physical personal property which the Company has the right to remove), of, upon or to any plant or system or other property in which the Company shall own only a leasehold interest unless (i) the term of the leasehold interest in the property to which such betterment, extension, improvement or addition relates shall extend for at least 75% of the estimated useful economic life of such betterment, extension, improvement or addition and (ii) the lessor shall have agreed to give the Trustee reasonable notice and opportunity to cure any default by the Company under such lease and not to disturb the Trustee's possession of such leasehold estate in the event the Trustee succeeds to the Company's interest in such lease upon the Trustee's exercise of any remedies under this Indenture so long as there is no default in the performance of the tenant's covenants contained therein.

"Qualified EPC Contract" means any contract providing for the engineering, procurement or construction of generation or related facilities (including electric transmission and fuel supply facilities) intended to be owned by the Company, progress payments under which are used as the basis for (i) loans or advances under Conditional Obligations under Section 4.6 or (ii) the authentication and delivery of Obligations under Section 4.9.

"Rates" has the meaning stated in Section 13.14.

"Redemption Date" when used with respect to any Obligation to be prepaid means the date of such prepayment and when used with respect to any Obligation to be redeemed means the date fixed for such redemption pursuant to this Indenture.

"Redemption Price" when used with respect to any Obligation to be prepaid means the amount of the indebtedness to be prepaid and when used with respect to any Obligation to be redeemed means the price at which such Obligation is to be redeemed pursuant to this Indenture. It includes the applicable redemption premium, if any, and any prepayment premium, surcharge, fee or penalty, but does not include installments of interest whose Stated Maturity is on or before the Redemption Date.

"Regular Record Date", except as may be otherwise set forth in a Supplemental Indenture for Additional Obligations of any series, means for the interest payable on any Interest Payment Date on the Obligations of any series, the date immediately preceding the Interest Payment Date.

"Responsible Officer" when used with respect to the Trustee means ~~the chairman or vice chairman of the board of directors of the Trustee, the chairman or vice chairman of the executive committee of such board, the president, any vice president, the secretary, any assistant secretary, the treasurer, any assistant treasurer, the cashier, any assistant cashier, any trust officer or assistant trust officer, the controller, any assistant controller~~ any officer within the corporate trust department of the Trustee, including any vice-president, any trust officer or any other authorized officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also means, with respect to a particular corporate trust matter, any other authorized officer of the Trustee to whom such matter is referred because of his knowledge of and familiarity with the particular subject.

“**Retired**” means, when used with respect to property, Bondable Property that, since the Cut-Off Date, has been retired, abandoned, destroyed, worn out, removed, permanently discontinued, lost through the enforcement of any liens or released, sold or otherwise disposed of free of the lien of this Indenture or taken by eminent domain or under the exercise of a right of a government authority to purchase or take the same or recorded as retired on the books of the Company or permanently retired from service for any reason, whether or not replaced, or shall have permanently ceased to be used or useful in the business of the Company, including as a consequence of the termination of any lease, whether or not recorded as retired on the books of the Company, except that, when a minor item of property has been replaced by other property of equal value and efficiency and the cost of such replacement has been charged to other than fixed property accounts such as maintenance, repairs or other similar account, the property replaced shall not be considered as Retired.

“**Retirements**” means Bondable Property that has been Retired. The “amount” of Retirements shall be computed as follows:

(a) ~~(b)~~ as to property owned by the Company on the Cut-Off Date, the net book value of such property as recorded on the books of the Company as of the Cut-Off Date; and

(b) ~~(c)~~ as to Property Additions, the Cost to the Company thereof or the Fair Value to the Company thereof, whichever is less, as certified to the Trustee at the time such Property Additions were certified in a Certificate as to Bondable Additions filed in accordance with Section 4.2 (estimated, if necessary, as to particular property), or if not theretofore so certified, then the Cost to the Company of such Property Additions.

In determining the amount of Retirements for any purpose under this Indenture, neither any reduction in book values of property recorded in the Company’s fixed plant accounts nor the transfer of any amount appearing in any such accounts to intangible or adjustment accounts, required or arising from adjustments required to be made by any regulatory body or otherwise, nor the elimination of any amount so transferred, otherwise than in connection with the actual retirement of physical property, shall be taken into account.

“**RUS**” means the Rural Utilities Service, or any agency or other governmental body succeeding to the functions thereof relating to this Indenture and, for any period prior to the establishment of the Rural Utilities Service, the Rural Electrification Administration.

“**RUS Obligations**” shall mean those Existing Obligations identified as the “RUS Obligations” on Exhibit C.

“**Series 1983 Revenue Bond Obligations**” shall mean those Existing Obligations identified as the “Series 1983 Revenue Bond Obligations” on Exhibit C.

“**Series 2001A Revenue Bond Obligation**” shall mean those Existing Obligations identified as the “Series 2001A Revenue Bond Obligations” on Exhibit C.

“**Special Record Date**” for the payment of any Defaulted Interest on Obligations means a date fixed by the Trustee pursuant to Section 3.9.

“Stated Maturity” when used with respect to any Obligation, any installment of principal thereof, or any installment of interest thereon, means the date specified in such Obligation as the date on which the principal of such Obligation or any installment thereof, or any installment of interest, is due and payable (without regard to any provisions for redemption, prepayment, declaration ~~or~~ acceleration, purchase or extension).

“Stock” means and includes all stock, shares, interests, membership interests, participations or other similar ownership, voting or other interests (however designated) in corporations, cooperatives, partnerships, joint-ventures, associations, joint-stock companies, limited liability companies, partnerships, trusts, unincorporated organizations or other types of legal entities.

“Subsidiary” of any specified entity means any corporation, cooperative, partnership, joint-venture, association, joint-stock company, limited liability company, partnership, trust, unincorporated organization or any other type of legal entity at least a majority of whose outstanding Voting Stock shall at the time be owned or held, directly or indirectly, by the specified entity or by one or more of its Subsidiaries.

“Supplemental Indenture” means any indenture supplemental hereto duly authorized in the manner provided herein.

“System” means all properties and interests in properties of the Company, including the Company’s interests in all electric production, transmission, distribution, conservation, load management, general plant and other related facilities, equipment or property and in any mine, well, pipeline, plant, structure or other facility for the development, production, manufacture, storage, fabrication or processing of fossil, nuclear or other fuel of any kind or in any facility or rights with respect to the supply of water, in each case for use, in whole or in major part, in any of the Company’s generating plants, now existing or hereafter acquired by the Company, including any interest or participation of the Company in any such facilities or any rights to the output or capacity thereof, together with all additions, betterments, extensions and improvements to any of the foregoing or any part thereof hereafter made and together with all lands, easements and rights-of-way of the Company and all other works, property or structures of the Company and contract rights and other tangible and intangible assets of the Company used or useful in connection with or related to any of the foregoing, including a contract right or other contractual arrangement for the long-term or short-term interconnection, interchange, exchange, pooling, ~~heeling~~wheeling, transmission, purchase or sale of electric power and energy and other similar arrangements with entities having generation or transmission capabilities.

“TIA” or **“Trust Indenture Act”** means, as of any time, the Trust Indenture Act of 1939, or any successor statute, as amended and in force at such time.

“Title Evidence” means, with respect to any real property:

A. an Opinion of Counsel to the effect that the Company, or the owner-lessor of the property in the case of real property described in paragraph C of the definition of “Property Additions”, has such title, whether fairly deducible of record or based upon prescriptive rights, as in the opinion of counsel, based upon information from the Company as to the nature and duration

of the use of such property, is satisfactory for the use thereof in connection with the operations of the Company, and counsel, in giving such opinion, may disregard any irregularity or deficiency in the record evidence of title which, in the opinion of such counsel, can be cured by proceedings within the power of the Company or, based upon information from the Company as to the nature and duration of the use of such property, does not substantially impair the usefulness of such property for the purpose for which the Company intends or expects to use such property, and may base such opinion upon his own investigation or upon affidavits, certificates, abstracts of title, statements or investigations made by Persons in whom such counsel has confidence or upon certificates or guaranties of title or policies of title insurance in which he has confidence, and, without limiting the foregoing, counsel may rely solely upon an Officers' Certificate as to matters regarding the use of such property in the operations of the Company or the usefulness of such property for the purpose for which the Company intends or expects to use such property; or

B. ~~A~~—a mortgagee's policy of title insurance (or a commitment to issue a mortgagee's policy of title insurance containing only standard conditions to issuance or such other conditions to issuance as are satisfactory to the Trustee) in the amount of the Cost to the Company of the land (on the date of acquisition) included in Property Additions, issued in favor of the Trustee by an entity authorized to insure title in the state in which the real property is located, showing the Company (or such owner-lessor) as the owner of the subject property and insuring the lien of this Indenture;

and with respect to any personal property or any other property that may constitute fixtures or real property solely as a consequence of being affixed to or erected on either (i) real property that was owned by the Company or subject to easements or rights-of-way in favor of the Company prior to the Cut-Off Date or (ii) real property that was acquired by the Company after the Cut-Off Date and as to which the Company has previously provided Title Evidence to the Trustee as described in either paragraph A or B above, an Officers' Certificate stating that the Company owns such personal property, fixtures or real property and that the Company continues to have title satisfactory for the use thereof in connection with the operations of the Company to the real property referred to in clause (i) or (ii) above, as the case may be; and, with respect to any property described in paragraph C of the definition of "Property Additions," an Officers' Certificate stating that the Company has a valid leasehold interest in, and is possessed of, such property and with respect to a leasehold interest meeting the requirements in paragraph (4C) of the definition of "Property Additions", an Officer's Certificate stating that the lease complies with the requirements of clauses (i) and (ii) of paragraph (4C).

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Indenture, and thereafter **"Trustee"** means such successor Trustee.

"Trust Estate" has the meaning stated in the Habendum to the Granting Clauses. **"Trust Moneys"** has the meaning stated in Section 6.1.

"Uniform Commercial Code" means, with respect to any particular part of the Trust Estate, the Uniform Commercial Code as enacted and in effect from time to time in the state or states whose laws are treated as applying to such part of the Trust Estate.

“Vice President” means, when used with respect to the Company or the Trustee, any vice president, whether or not designated by a number or a word added to the title.

“Voting Stock” means Stock of any class or classes (however designated) having ordinary voting power for the election of a majority of the members of the board of directors (or other governing body) of a corporation or other Person, other than Stock having such power only by reason of the happening of a contingency.

“Wholesale Power Contracts” means, collectively, (a) the contracts and agreements (together with the amendments and supplements thereto) with the Member Cooperatives, identified on Exhibit B, together with each successor or replacement thereof, and (b) each other contract and agreement of substantially similar terms and conditions from time to time entered into between the Company and a Member Cooperative providing for the sale of electric power and energy by the Company to such Member Cooperative.

Section 1.2 Acts of Holders.

A. Any request, demand, authorization, direction, notice, approval, consent, waiver or other action provided by this Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by an agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to the Trustee, and, where it is hereby expressly required, to the Company. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the “Act” of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Indenture and conclusive in favor of the Company and (subject to Section 9.1) in favor of the Trustee, if made in the manner provided in this Section.

B. The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by the certificate of any notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Whenever such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, and the authority of the Person executing the same, may also be proved in any manner which the Trustee deems sufficient.

C. The ownership of Obligations shall be proved by the Obligation Register.

D. Any request, demand, authorization, direction, notice, consent, approval, waiver or other Act of the Holder of any Obligation shall bind every future Holder of the same Obligation and the Holder of every Obligation issued upon the transfer thereof or in exchange therefor or in lieu thereof, in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, whether or not notation of such action is made upon such Obligation. However, unless such Obligation is held in the Book-Entry System and the DTC letter of representation executed by the Company in connection therewith, as amended from time to time,

does not permit such revocation, any such Holder or subsequent Holder may revoke by written instrument any such Act as to his Obligation or portion of an Obligation until such time as written instruments have been received by the Trustee with respect to the requisite percentage of principal amount of Obligations for the action contemplated by such instruments; **PROVIDED, HOWEVER,** that such revocation shall be effective only if the Trustee receives written notice of revocation before the date the Trustee or the Company does or suffers to be done anything in reliance on such Act.

Section 1.3 Notices, etc., to Trustee and Company.

Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holders or other document provided or permitted by this Indenture to be made upon, given or furnished to, or filed with,

A. the Trustee by any Holder or by the Company shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its ~~principal corporate trust office~~ Principal Corporate Trust Office, or

B. the Company by the Trustee or by any Holder shall be sufficient for every purpose hereunder (except as otherwise expressly provided in Sections 8.1C and 8.1 E) if in writing and mailed, first-class postage prepaid with return receipt requested, hand-delivered or expressed overnight with proof of delivery, or via confirmed facsimile to the Company addressed to it at 201 Third Street, Henderson, Kentucky 42420, or at any other address furnished in writing to the Trustee by the Company.

Section 1.4 Notices to Holders; Waiver.

Where this Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid, to each Holder of such Obligations, at the address of such Holder as it appears in the Obligation Register not later than the latest date, and not earlier than the earliest date, prescribed for such notice.

In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case, by reason of the suspension of mail service or by reason of any other cause, it shall be impossible to give such notice by mail, then such notification as otherwise provided for in Section 1.3B or as shall be specified by the Company and satisfactory to the Trustee shall constitute a sufficient notification for every purpose hereunder.

Section 1.5 Form and Contents of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an Officer of the Company may be based, insofar as it relates to legal matters, upon a certificate or opinion of, advice of or representations by, counsel, unless such Officer knows, or in the exercise of reasonable care should know, that the certificate, opinion, advice or representations with respect to the matters upon which his certificate or opinion is based are erroneous.

Any Opinion of Counsel may be based, in so far as it relates to factual matters or matters of business judgment, upon a certificate or opinion of, advice, statements or representations by, an Officer or Officers of the Company, unless such counsel knows that the certificate, opinion, advice, statement or representation with respect to such matters is erroneous. Any Opinion of Counsel may be based upon such assumptions, be subject to such qualifications and may be stated in such language as at the time delivered is considered in the jurisdiction whose laws are covered by such opinion to be appropriate and consistent with standard practice with respect to opinions relating to such matters. In addition, in giving any Opinion of Counsel, counsel may rely upon legal opinions addressed to the Company or such counsel as appropriate and consistent with standard practice with respect to reliance on legal opinions of other counsel. Without limiting the foregoing, in giving any Opinion of Counsel with respect to matters involving title or lien priority, counsel may rely upon (i) prior opinions or certificates of counsel for the Company, regardless of to whom such opinions are addressed, and whether delivered by general counsel, special counsel or in-house counsel for the Company provided such counsel has no reason to believe such reliance is unwarranted and (ii) title insurance policies, title insurance commitments and reports, record search certificates, abstracts and other similar evidences of matters reflected in public records and of the existence of liens.

Whenever any Person is required to make, give or execute two or more Applications, requests, consents, certificates, statements, opinions or other instruments under this Indenture, they may, but need not, be consolidated and form as few as one document.

Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished to the Trustee, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the Person furnishing such opinion or certificate is Independent within the meaning thereof.

Wherever in this Indenture, in connection with any Application, request, certificate, statement, opinion or other report to the Trustee, it is provided that the Company shall deliver any document as a condition of the granting of such Application, or as evidence of the Company's compliance with any term hereof, it is intended that the truth and accuracy, at the time of the granting of such Application or at the effective date of such request, certificate, statement, opinion

or other report (as the case may be), of the facts and opinions stated in such document shall in such case be conditions precedent to the right of the Company to have such Application granted or to the sufficiency of such document. Notwithstanding anything else herein to the contrary, the validity of any action taken or Obligation issued hereunder based upon any Application, request, certificate, statement, opinion or other report shall not be affected by the truth and accuracy of such document or documents. Nothing in the immediately preceding sentence shall, however, limit any rights or remedies available to the Trustee or the Holders under this Indenture or at law or equity against the Company or any officer thereof with respect to a false or inaccurate Application, request, certificate, statement, opinion or other report other than any remedy seeking to invalidate the action so taken or Obligation issued.

Whenever a clerical, typographical, inadvertent or unintentional error or omission shall be discovered in any instrument filed with the Trustee, a new instrument in corrected form, executed as prescribed herein for that originally filed and which may bear the same date as the instrument originally filed, may be substituted therefor with the same force and effect as if the instrument originally filed had been filed in the corrected form, or in lieu of such substitution an appropriate adjustment may be made in a like instrument filed with the Trustee after such discovery. To the extent that action has been taken hereunder which could not have been taken had the original instrument been filed in correct form, such action shall be validated and rendered effective if the substituted or adjusting instrument shall indicate that any deficiency has been fully satisfied since the filing of the original instrument.

Section 1.6 Compliance Certificates and Opinions.

Upon any Application or request by the Company to the Trustee to take any action under any provision of this Indenture, the Company shall furnish to the Trustee an Officers' Certificate identifying the relevant provisions of this Indenture and stating that all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with and, an Opinion of Counsel stating that in the opinion of such Counsel all such conditions precedent, if any, have been complied with, except that in the case of any Application or request as to which the furnishing of such documents is specifically required by any provision of this Indenture relating to such particular Application or request, no additional certificate or opinion need be furnished.

Whenever it is herein provided that any Independent Person's opinion or certificate shall be furnished to the Trustee, such opinion or certificate shall state that the signer has read the definition of "Independent" and that the Person furnishing such opinion or certificate is Independent within the meaning thereof.

Every certificate or opinion required to state that a condition or covenant provided for in this Indenture has been complied with (other than certificates provided pursuant to Section 13.12 hereof) shall include:

- A. a statement that each individual signing such certificate or opinion has read such condition or covenant and the definitions herein relating thereto;
- B. a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

C. a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such condition or covenant has been complied with; and

D. a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

The Trustee shall be entitled to rely conclusively on any such certificate or opinion as provided in Section 9.1.

Section 1.7 Conflict with Trust Indenture Act.

At any time at which this Indenture is qualified or required to be qualified under the TIA, if any provision hereof limits, qualifies or conflicts with another provision hereof which is required to be included in this Indenture by any of the provisions of the TIA, such required provision shall control.

Section 1.8 Effect of Headings and Table of Contents.

The Article and Section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

Section 1.9 Successors and Assigns.

All covenants and agreements in this Indenture by the Company shall, subject to Section 11.2B, bind its successors and assigns, whether so expressed or not.

Section 1.10 Severability Clause.

In case any provision in this Indenture or in any Obligation shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 1.11 Benefits of Indenture.

Nothing in this Indenture or in the Obligations, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder, any separate trustee or co-trustee appointed under Section 9.14 and the Holders, any benefit or any legal or equitable right, remedy or claim under this Indenture.

Section 1.12 Governing Law.

This Indenture and the Obligations shall be governed by and construed in accordance with the laws of the Commonwealth of Kentucky, provided, however, that any Obligation as to which the RUS is the Holder shall be governed by and construed in accordance with federal laws.

Section 1.13 Action by Credit Enhancer When Action by Holders Required.

Notwithstanding anything herein to the contrary, except as otherwise provided in a Supplemental Indenture creating and establishing Obligations of any series or maturity within a series for which Credit Enhancement is being provided if the Credit Enhancer is not in default in respect of any of its obligations with respect to Credit Enhancement for such Obligations, the Credit Enhancer for, and not the actual Holders of, such Obligations, shall be deemed to be the Holder of such Obligations at all times for the purpose of (i) giving any approval or consent to the effectiveness of any Supplemental Indenture or to any amendment, change or modification of this Indenture which requires the written approval or consent of Holders of such Obligations; **PROVIDED, HOWEVER**, that the provisions of this clause (i) shall not apply to any change which could not be made pursuant to Section 12.2 without the consent of each Holder of Obligations affected thereby, and (ii) giving any other approval or consent, giving any notice, effecting any waiver or authorization, exercising any remedies, giving any direction or taking any other action in accordance with the provisions of this Indenture.

Section 1.14 Bank Holidays.

Except as specified in an Existing Obligation or in a Supplemental Indenture, if the specified date for the making of any payment or the last date for performance of any act or the exercising of any right, as provided in this Indenture, shall be a Saturday, Sunday or legal holiday or a day on which banking institutions in the city in which is located the Principal Corporate Trust Office are authorized by law to remain closed, such payment may be made or act performed or right exercised on the next succeeding day which is not one of the foregoing days without additional interest and with the same force and effect as if made, performed or exercised on the specified date for such payment.

Section 1.15 Uniform Commercial Code Security Interest; Mortgage.

(a) Uniform Commercial Code Security Interest. This Indenture is intended to be a security agreement pursuant to the Uniform Commercial Code covering any of the items or types of property included as part of the Trust Estate that may be subject to a security interest pursuant to the Uniform Commercial Code, and the Company hereby grants to the Trustee a security interest in such items or types of property. The Company will authorize and deliver to the Trustee, upon the Trustee's request, any financing statements or amendments thereof or continuation statements thereto that the Trustee may require to perfect a security interest in said items or types of property. The Company shall pay all costs of filing such instruments, and all such costs shall be secured by this Indenture.

From the date of its recording, this Indenture shall be effective as a financing statement filed as a fixture filing with respect to all goods constituting part of the Trust Estate which are or are to become fixtures related to the real property. For this purpose, the following information is set forth:

The name and address of the Debtor is:	Big Rivers Electric Corporation 201 Third Street Henderson, Kentucky 42420
Type of Debtor:	Corporation
Jurisdiction of Organization:	Kentucky
State Organizational No.:	25757
The name and address of the Secured Party is:	U.S. Bank National Association 225 Asylum Street Hartford, Connecticut 06103

This Indenture covers goods which are or are to become fixtures related to the real property described on Exhibit A attached hereto.

(b) Mortgage. This Indenture is also intended to be a mortgage under, and construed in accordance with, the laws of the Commonwealth of Kentucky.

Section 1.16 Maturity of Obligations.

The maturity of the Existing Obligations is set forth in the Existing Obligations. The Stated Maturity of Additional Obligations authorized pursuant to Article V and secured by this Indenture shall be as provided in the Supplemental Indentures adopted in accordance with and pursuant to Sections 3.2 and 12.1.

Section 1.17 Acceptance of Trust by Trustee.

The Trustee accepts the trusts in this Indenture declared and provided, upon the terms and conditions herein set forth.

Section 1.18 Investment of Cash Held by Trustee.

Any cash held by the Trustee or any Paying Agent under any provision of this Indenture shall, except as otherwise provided in Article VII, at the request of the Company evidenced by a Company Request be invested or reinvested as designated by the Company, and, unless an Event of Default shall exist, any interest or other earnings on such investments shall be paid over promptly to the Company as received by the Trustee, free and clear of any lien, including the lien of this Indenture. Such investments shall be held subject to the same provisions hereof as was the cash used to purchase the same, but at the request of the Company evidenced by a Company

Request shall be sold, in whole or in designated part, and the proceeds of such sale shall be held subject to the same provisions hereof as was the cash used to purchase the investments so sold. If such sale shall produce a net sum less than the cost of the investments so sold, the Company shall pay promptly to the Trustee or any such Paying Agent, as the case may be, such amount in cash as, together with the net proceeds from such sale, shall equal the cost of the investments so sold, and if such sale shall produce a net sum greater than the cost of the investments so sold, the Trustee or any such Paying Agent, as the case may be, shall pay over promptly to the Company an amount in cash equal to such excess, free and clear of any lien, including the lien of this Indenture, unless an Event of Default shall exist.

Section 1.19 Principal Amount of Obligations Other than Bonds; Principal Amount of RUS ~~2008~~2009 Promissory Note Series B.

(a) At any point in time, the principal amount of any Obligation which is in any form other than a bond shall not include any amount not advanced and then outstanding thereunder. The principal amount of any Obligation evidencing an assumption by the Company of all or a part of another obligation shall be the principal amount outstanding under such other obligation, or the portion thereof assumed pursuant to or evidenced by such Obligation. The principal amount of an Obligation in any form other than a bond shall be reduced as the principal amount of such an Obligation (or the obligation it evidences an assumption of) is paid or otherwise reduced. The Company retains the right to have such principal payments or reductions readvanced unless the Company elects to have such payments treated as principal payments or retirements for purposes of Sections 4.3, 4.6, 4.8, 6.2, 6.3 and 16.3. If any such principal payment or reduction shall not be treated as a payment or retirement because the Company has the right to have such paid or reduced amounts readvanced, once the readvance right expires or is relinquished or otherwise terminated, such principal payment or reduction shall thereupon be treated as a principal payment or retirement under such Sections. The principal amount of an Obligation in any form other than a bond may be evidenced from time to time by an Officers' Certificate delivered to the Trustee and the Holder of such Obligation. In the event the Holder objects to the principal amount of such Obligation as set forth in such Officers' Certificate by delivering a written objection to the Trustee within sixty (60) days of the Holder's receipt of such Officers' Certificate, the Trustee may require such other evidence of the principal amount of such Obligation as shall be satisfactory to the Trustee in its sole discretion. In the absence of any such objection by the Holder, the Trustee may rely conclusively on such Officers' Certificate. Such Officers' Certificate shall contain a statement of the foregoing objection rights of the Holder and the sixty (60) day period for objection.

(b) The principal amount of the RUS ~~2008~~2009 Promissory Note Series B identified on Exhibit C shall, for purposes of voting, directing the time, place or manner or exercising any remedy, applying moneys, authenticating and delivering Additional Obligations, release of any part of the Trust Estate and for all other purposes under this Indenture, shall be the outstanding amount of such RUS ~~2008~~2009 Promissory Note Series B, multiplied by the applicable percentage indicated in applicable Acceleration Percentage for any such ~~date~~year in question identified in the description of the RUS ~~2008~~2009 Promissory Note Series B on Exhibit C. ~~The terms and conditions of all other Existing Obligations, including the principal amounts, maturity dates, interest rates and payment and prepayment provisions, shall be as provided for therein.~~

Section 1.20 RUS as Holder.

A. As to any Obligation guaranteed or insured by the United States of America, pursuant to the Rural Electrification Act of 1936, as amended, or any other federal statute, the United States of America, acting by and through the Administrator of RUS, and not the actual payee of such Obligation, shall be, and shall have the rights of, the Holder of such Obligation for all purposes under this Indenture at all times during which such Obligation is so guaranteed or insured. The rights of RUS pursuant to this Section with respect to any such Obligation shall not be affected by whether RUS physically possesses such Obligation, and the exercise of such rights shall not require the production of any such Obligation. With respect to any such Obligation, any Obligation as to which RUS is the named payee, the Obligation Register shall show the Holder of all such Obligations to be "United States of America, acting by and through the Administrator of the Rural Utilities Service" unless and until RUS requests that the Obligation Register show a different name (including in the event RUS transfers any such Obligation). RUS may hold Obligations, and be registered as the Holder thereof, in a number of different capacities, including as provided in this Section 1.20 with respect to Obligations guaranteed or insured by the United States of America, acting by and through the Administrator of RUS, and as the named payee of Obligations evidencing loans or advances made or to be made to the Company.

B. Certain of the Existing Obligations are, and certain Additional Obligations may be, held by RUS, and are the subject of the Amended and Consolidated Loan Contract (the "**Loan Contract**") between the Company and the United States of America, acting by and through the Administrator of RUS, dated as of _____, ~~2008~~, July 1, 2009, as the same may have been or may be amended. In addition, the loans evidenced by the Obligations held by RUS were made pursuant to, and, therefore, the Company is or may be subject to, the provisions of the Rural Electrification Act of 1936, as amended, as well as other federal statutes or regulatory policies and regulations and bulletins issued by RUS from time to time (collectively, the "**Statutory Provisions**"). The rights of RUS, including the enforcement, exercise or waiver of such rights, under the Loan Contract and the Statutory Provisions are for the sole benefit of, and may be relied upon only by, RUS. No Person, including the Trustee or any Holder (other than RUS), shall have any rights or remedies under the Loan Contract or Statutory Provisions or be deemed a third party beneficiary thereof. RUS may enforce or exercise any or all its rights under the Loan Contract and/or the Statutory Provisions, or may forbear from doing so, or may waive any such rights, in RUS's sole and absolute discretion, subject only to the applicable provisions of the Loan Contract and the applicable Statutory Provisions, and neither the Trustee nor any Holder (other than RUS) shall have or assert any claims against RUS (including any challenge to the amount, validity, priority, or enforceability of the undertakings of the Company to RUS under the Loan Contract) on account of any such enforcement, exercise, forbearance or waiver of any of the rights of RUS under the Loan Contract or any of the Statutory Provisions.

Section 1.21 Effective Date.

Notwithstanding the date that this Indenture is executed, delivered and filed for recordation, the provisions of this Indenture shall be effective as of { _____ }, ~~2008~~, July 1, 2009.

Section 1.22 Counterpart Execution.

This Indenture may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

ARTICLE II

FORMS OF OBLIGATIONS

Section 2.1 Forms of Obligations Generally.

Additional Obligations may be in the form of bonds, notes, guarantees, assumption agreements or any other undertaking for the payment of borrowed money or purchase money indebtedness. Additional Obligations of each series shall be in substantially the form set forth in the Supplemental Indenture creating such series, or in a Board Resolution establishing such series and delivered to the Trustee, or in an Officers' Certificate pursuant to a Supplemental Indenture or Board Resolution and delivered to the Trustee, in each case with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or as may, consistently herewith, be determined by the Officers executing such Additional Obligations, as evidenced by their execution of such Obligations. Any portion of the text of any Additional Obligation may be set forth on the reverse or subsequent pages thereof, with an appropriate reference thereto on the face of the Additional Obligation if desired. Such Additional Obligations may be printed, lithographed, typewritten, mimeographed or otherwise produced.

Section 2.2 Form of Trustee's Certificate of Authentication for Obligations.

(a) The Trustee's certificate of authentication for Existing Obligations shall be in substantially the following form:

This is one of the Existing Obligations referred to in the Indenture, dated as of , ~~2008~~, July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

as Trustee

By: _____
Authorized Signatory

(b) The Trustee's certificate of authentication for Additional Obligations shall be in substantially the following form:

This is one of the Obligations referred to in the Indenture, dated as of ~~_____~~, ~~2008, July 1, 2009~~, between Big Rivers Electric Corporation and U.S. Bank National Association.

as Trustee

By: _____
Authorized Signatory

ARTICLE III

THE OBLIGATIONS

Section 3.1 Terms and Authentication of Existing Obligations.

There shall be three separate series of Existing Obligations, consisting of the Series 1983 Revenue Bond Obligations, the Series 2001A Revenue Bond Obligations and the RUS Obligations, which the Trustee shall authenticate upon presentation thereof to the Trustee by the Holders thereof. Such authentication shall be by execution of a certificate in substantially the form set forth in Section 2.2(a) which may be set forth either on the Existing Obligation or on an allonge affixed to an Existing Obligation. Only such Obligations authenticated by the Trustee pursuant to this Section 3.1 shall constitute Existing Obligations and be entitled to the benefits of and security of this Indenture as Existing Obligations. The terms and conditions of all Existing Obligations, including the principal amounts, maturity dates, interest rates and payment and prepayment provisions, shall be as provided for therein.

Section 3.2 General Title; General Limitations; Issuable in Series.

(a) Unless specified otherwise by a Company Request, provided for in a Supplemental Indenture, the general title of all series of Additional Obligations shall be “**FIRST MORTGAGE OBLIGATIONS**,” or “**FIRST MORTGAGE BONDS**”.

(b) The aggregate principal amount of Additional Obligations which may be authenticated and delivered and Outstanding under this Indenture is three billion dollars (\$3,000,000,000) unless this Indenture is amended to increase such amount. Additional Obligations shall be issued in accordance with Article IV and the provisions of any Supplemental Indenture creating any series of Additional Obligations. The Additional Obligations may be issued in one or more series as from time to time may be authorized by the Board of Directors. With respect to the Additional Obligations of any particular series, the Company may utilize the general title of Additional Obligations as provided in Section 3.2(a) or may use any other words, letters or figures as the title of that series as may be specified in a Company Request, or as provided for in a Supplemental Indenture.

(c) Any increase in the outstanding principal amount of any Existing Obligation shall be deemed an issuance of an Additional Obligation in the amount of such increase and shall,

therefore, be subject to satisfying the conditions for the issuance of Additional Obligations, provided in Article IV. Without limiting the generality of the foregoing sentence, any loan or advance of funds under any Existing Obligation that constitutes a Conditional Obligation shall be subject to satisfying the conditions provided in Section 4.6.

Section 3.3 Terms of Particular Series.

(a) Each series of Additional Obligations, shall be created by a Supplemental Indenture authorized by the Board of Directors and establishing the terms and provisions of such series of Additional Obligations or the method by which such terms and provisions shall be established. The several series of Additional Obligations may differ from the Existing Obligations and as between series and may differ from Existing Obligations in any respect not in conflict with the provisions of this Indenture, all as may be prescribed in the Supplemental Indenture creating such series. At the time of the creation of any series of Additional Obligations or at any time thereafter, the Company may establish provision for the following which shall be contained in the Additional Obligations:

A. the exchange or conversion of the Additional Obligations of such series, at the option of the Holders thereof, for or into new Additional Obligations of a different series or other securities;

B. ~~A.~~ a sinking, amortization, improvement or other analogous fund or for the payment of principal by installments or otherwise with respect to Additional Obligations of such series;

C. ~~A.~~ limiting the aggregate principal amount of the Additional Obligations of such series;

D. ~~A.~~ exchanging Additional Obligations of such series, at the option of the Holders thereof, for other Additional Obligations of the same series of the same aggregate principal amount of a different authorized kind or authorized denomination or denominations;

E. ~~A.~~ the authentication of Additional Obligations of such series by the Authenticating Agent;

F. ~~A.~~ providing for the issuance of Additional Obligations of such series in bearer or book-entry form;

G. ~~A.~~ specifying redemption or prepayment terms and procedures with respect to Additional Obligations of such series;

H. ~~A.~~ specifying business days, grace periods, record dates, other provisions and such covenants and/or events of default or remedies with respect to Additional Obligations of such series; and

I. ~~A.~~ any other terms of the Additional Obligations of such series, or any maturity thereof, not inconsistent with the provisions of this Indenture;

all upon such terms as the Board of Directors may determine as evidenced by a Board Resolution, or as may be set forth in the Supplemental Indenture creating any series of Additional Obligations.

All Additional Obligations of like maturity of the same series shall be substantially identical except that any series may have serial maturities and different interest rates for different maturities and except as may otherwise be provided in the Supplemental Indenture creating such series.

(b) With respect to Additional Obligations of a series subject to a Periodic Offering, the Supplemental Indenture or the Board Resolution, or Officers' Certificate pursuant to the Supplemental Indenture or Board Resolution, as the case may be, which establishes such series may provide general terms or parameters for Additional Obligations of such series and specify procedures by which such specific terms are to be established (which procedures may provide for authentication and delivery pursuant to oral or electronic instructions from the Company or any agent or agents thereof, which oral instructions are to be promptly confirmed electronically or in writing).

Section 3.4 Denominations.

The Additional Obligations of each series shall be issuable in such denominations as shall be provided for in the Supplemental Indenture creating such series. In the absence of any such provision with respect to the Additional Obligations of any particular series, the Additional Obligations of such series shall be in the denomination of \$1,000 or any integral multiple thereof.

Section 3.5 Execution, Authentication, Delivery and Dating.

The Additional Obligations shall be executed on behalf of the Company by its President, its General Manager, one of its Vice Presidents, its Secretary or its Treasurer, or such other Officer who may be designated by a Board Resolution to execute the Additional Obligations, and, if required by a Board Resolution, attested by its Secretary or one of its Assistant Secretaries. The signature of any of these Officers on the Additional Obligations may be manual or facsimile. Additional Obligations bearing the manual or facsimile signatures of individuals who were at any time the proper Officers of the Company shall bind the Company, notwithstanding that such individuals or any of them shall have ceased to hold such offices prior to the authentication and delivery of such Additional Obligations or shall not have held such offices at the date of such Additional Obligations.

At any time and from time to time after the execution and delivery of this Indenture, the Company may deliver Additional Obligations executed by the Company to the Trustee for authentication, together with a Company Request for the authentication and delivery of such Additional Obligations, and the Trustee shall authenticate and deliver such Additional Obligations as provided in this Indenture and not otherwise.

All Additional Obligations shall be dated as provided in the Supplemental Indenture creating such Additional Obligations or, in the absence thereof, the date of their authentication.

No Obligation shall be secured by, or be entitled to any lien, right or benefit under, this Indenture or be valid or obligatory for any purpose, unless there appears on such Obligation (or an

allonge thereto) a certificate of authentication substantially in the form provided for herein, executed by the Trustee or the Authenticating Agent by manual signature, and such certificate upon any Obligation (or an allonge thereto) shall be conclusive evidence, and the only evidence, that such Obligation has been duly authenticated and delivered hereunder.

Section 3.6 Temporary Additional Obligations.

Pending the preparation of definitive Additional Obligations, the Company may execute and, upon Company Request, the Trustee shall authenticate and deliver, temporary Additional Obligations which are printed, lithographed, typewritten, photocopied or otherwise produced or reproduced, in any authorized denomination, substantially of the tenor of the definitive Additional Obligations in lieu of which they are issued, and with such appropriate insertions, omissions, substitutions and other variations as the Officers executing such Additional Obligations may determine, as evidenced by their execution of such temporary Additional Obligations.

If temporary Additional Obligations are issued, the Company will cause the definitive Additional Obligations to be prepared without unreasonable delay. After the preparation of definitive Additional Obligations, the temporary Additional Obligations shall be exchangeable for definitive Additional Obligations upon surrender of the temporary Additional Obligations at the office or agency of the Trustee in a Place of Payment therefor, without charge to the Holder. Upon surrender for exchange of any one or more temporary Additional Obligations, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Additional Obligations of authorized denominations. Until so exchanged, temporary Additional Obligations shall in all respects be entitled to the security and benefits of this Indenture. Upon surrender for exchange, temporary Additional Obligations shall be canceled as provided in Section 3.11.

Section 3.7 Registration; Registration of Transfer and Exchange.

The Company shall cause to be kept at one of the offices or agencies maintained by the Trustee a register (herein sometimes referred to as the “**Obligation Register**”) in which, subject to such reasonable regulations as it may prescribe, the Trustee shall provide for the registration of Obligations and registration of transfers and exchanges of Obligations. The Trustee is hereby appointed “**Obligation Registrar**” for the purpose of registering Obligations and transfers and exchanges of Obligations as herein provided.

Upon surrender for registration of transfer of any Obligation at the office or agency of the Trustee in a Place of Payment therefor (or the delivery of other evidence satisfactory to the Trustee of the transfer of an Obligation), the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Obligations of the same series and maturity, of any authorized denomination and of a like aggregate principal amount (in the event such Obligation is not surrendered for transfer, upon delivery to the Trustee of such satisfactory evidence of a transfer, the Obligation Registrar shall register such transfer on the Obligations Register).

Upon surrender for exchange of any Obligation at the office or agency of the Trustee in a Place of Payment thereof, the Company shall execute, and the Trustee shall authenticate and

deliver, in the name of the Holder exchanging such Obligation, one or more new Obligations of the same or different series of any authorized denomination and of a like aggregate principal amount and maturity.

All Obligations surrendered upon registration of transfer or exchange provided for in this Indenture shall be promptly canceled by the Trustee and thereafter the Trustee shall retain such Obligations or destroy such Obligations and deliver a certificate of destruction to the Company.

All Obligations issued upon any registration of transfer or exchange of Obligations shall be the valid obligations of the Company, evidencing the same debt, and entitled to the same security and benefits under this Indenture, as the Obligations surrendered upon such registration of transfer or exchange.

Every Obligation presented or surrendered for registration of transfer or exchange shall (if so required by the Company or the Obligation Registrar) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Obligation Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration, discharge from registration, registration of transfer or exchange of Obligations, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Obligations, other than exchanges under Section 3.6, ~~13.6~~12.6 or ~~15.7~~14.7 not involving any transfer.

Except as provided in a Supplemental Indenture, the Company shall not be required to issue and the Obligation Registrar shall not be required (i) to register the transfer or exchange of any Obligation of any series during a period beginning at the opening of business fifteen (15) days before the day of the mailing of a notice of redemption of Obligations of such series under Section 14.4 and ending at the close of business on the day of such mailing, or (ii) to register the transfer or exchange of any Obligation so selected for redemption in whole or in part, except the unredeemed portion of an Obligation being redeemed in part.

Section 3.8 Mutilated, Destroyed, Lost and Stolen Obligations.

If (i) any mutilated Obligation is surrendered to the Trustee, or (ii) the Company and the Trustee receive evidence to their satisfaction of the destruction, loss or theft of any Obligation, and there is delivered to the Company and the Trustee such security or indemnity as may be required by them to save each of them harmless, then, in the absence of notice to the Company or the Trustee that such Obligation has been acquired by a bona fide purchaser, the Company shall execute and upon its written request the Trustee shall authenticate and deliver, in exchange for any such mutilated or in lieu of any such destroyed, lost or stolen Obligation, a new Obligation of the same series and of like tenor and principal amount and bearing a number not contemporaneously outstanding.

In case any such mutilated, destroyed, lost or stolen Obligation has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Obligation, pay such Obligation.

Upon the issuance of any new Obligation under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expense (including the fees and expenses of the Trustee) connected therewith.

Every new Obligation issued pursuant to this Section in lieu of any destroyed, lost or stolen Obligation shall constitute an original contractual obligation of the Company, even in the event any destroyed, lost or stolen Obligation shall be enforceable at any time by anyone, and shall be entitled to all the security and benefits of this Indenture equally and ratably with all other Outstanding Secured Obligations.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Obligations.

Section 3.9 Payment of Interest; Interest Rights Preserved.

Interest on any Obligation of any series which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Obligation (or one or more Predecessor Obligations) is registered at the close of business on the Regular Record Date for such interest as specified herein, in the provisions of the Supplemental Indenture creating such series.

Any interest on any Obligation of any series which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called “**Defaulted Interest**”) shall be payable as provided in such Obligation, or if not so provided, shall forthwith cease to be payable to the Holder on the relevant Regular Record Date solely by virtue of such Holder having been such Holder, and such Defaulted Interest may be paid by the Company, at its election, as provided in paragraphs A or B below:

A. The Company may elect to make payment of any Defaulted Interest on the Obligations of any series to the Persons in whose names such Obligations (or their respective Predecessor Obligations) are registered at the close of business on a Special Record Date for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Obligation and the date of the proposed payment (which date shall be such as will enable the Trustee to comply with the next sentence hereof), and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this subsection provided and not to be deemed part of the Trust Estate or Trust Moneys. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than fifteen (15) days nor less than ten (10) days prior to the date of the proposed payment and not less than ten (10) days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the

Special Record Date therefor to be mailed, first-class postage prepaid, to each Holder of an Obligation of such series at his address as it appears in the Obligation Register not less than ten (10) days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Persons in whose names the Obligations of such series (or their respective Predecessor Obligations) are registered on such Special Record Date and shall no longer be payable pursuant to the following paragraph B.

B. The Company may make payment of any Defaulted Interest on the Obligations of any series in any other lawful manner not inconsistent with the requirements of any securities exchange on which such Obligations may be listed and upon such notice as may be required by such exchange, if, after written notice given by the Company to the Trustee of the proposed payment pursuant to this Subsection, such payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Obligation delivered under this Indenture upon transfer of or in exchange for or in lieu of any other Obligation shall carry all the rights to interest accrued and unpaid, and to accrue, which were carried by such other Obligation and each Obligation delivered upon transfer of or in exchange for or in lieu of any such other Obligation shall bear interest from the date specified in the delivered Obligation, so that neither gain nor loss in interest shall result from such transfer, exchange or substitution.

Section 3.10 Persons Deemed Owners.

Subject to the provisions of Sections 1.13 and 1.20, prior to due presentment of such Obligation for registration of transfer, the Company, the Trustee and any agent of the Company or the Trustee may treat the Person in whose name any Obligation is registered in the Obligation Register as the Holder of such Obligation for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 3.9) interest on such Obligation and for all other purposes whatsoever, whether or not such Obligation be overdue, and, to the extent permitted by law, neither the Company, the Trustee nor any such agent shall be affected by notice to the contrary.

Section 3.11 Cancellation.

All Obligations surrendered for payment, redemption, transfer, reissue, exchange or conversion, if surrendered to the Trustee, shall be promptly canceled by it, and, if surrendered to any Person other than the Trustee, shall be delivered to the Trustee and, if not already canceled, shall be promptly canceled by it. The Company may at any time deliver to the Trustee for cancellation any Obligations previously authenticated and delivered hereunder, which the Company may have acquired in any manner whatsoever, and all Obligations so delivered shall be promptly canceled by the Trustee. No Obligation shall be authenticated in lieu of or in exchange for any Obligation canceled as provided in this Section, except as expressly provided by this Indenture. All canceled Obligations held by the Trustee may be destroyed and thereafter the Trustee shall deliver a certificate of destruction to the Company.

ARTICLE IV

AUTHENTICATION AND DELIVERY OF ADDITIONAL OBLIGATIONS

Section 4.1 General Provisions.

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company, and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon the basis permitted by, and upon compliance with the conditions of, Section 4.2 (upon the basis of Bondable Additions), Section 4.3 (upon the basis of retirement or defeasance of, or principal payments on, Obligations), Section 4.4 (upon the basis of Deposited Cash), Section 4.7 (in connection with Credit Enhancement Obligations) and Section 4.9 (upon the basis of Certified Progress Payments) upon receipt in each case by the Trustee of the following (except to the extent such Sections provide otherwise) upon or prior to the date of the initial issuance of such Additional Obligations:

A. A Board Resolution authorizing and requesting the authentication and delivery under one or more Sections of this Article from time to time or at any time of a specified principal amount of Additional Obligations of a designated series.

B. An Officers' Certificate, dated within thirty (30) days of the date of the Application for the authentication and delivery of the initial issuance of such Additional Obligations, stating that:

(1) no Event of Default exists,

(2) none of the Trust Estate is subject to any Prior Lien other than Prior Liens permitted by Section 13.6, and

(3) the conditions precedent provided for in this Indenture relating to the authentication and delivery of the initial issuance of such Additional Obligations have been complied with (and, in the event such Additional Obligations are subject to a Periodic Offering, that the statements made in such Officers' Certificate shall be deemed remade at the time of each subsequent authentication and delivery of such Additional Obligations).

C. An Opinion of Counsel

(1) specifying the certificate or other evidence that shows, or cash deposit that will provide for, compliance with the requirements, if any, of any tax or recording or filing law (other than fees for the recording of documents, for which no cash deposit with the Trustee shall be required) applicable to the authentication and delivery of the initial issuance of the Additional Obligations then applied for, or stating that there is no such requirement;

(2) specifying the certificate or other evidence that shows the authorization, approval or consent of or to the authentication and delivery of the initial issuance by the Company of the Additional Obligations then applied for by any federal, state or other

governmental regulatory agency whose authorization, approval or consent is at the time required to be obtained by the Company, or stating that each such authorization, approval or consent has been obtained or that none is required;

(3) stating that none of the Trust Estate is subject to any Prior Lien other than Prior Liens permitted by Section 13.6, **PROVIDED**, that the opinion required by this subparagraph (3) may be limited, with respect to personal property, to that part of the Trust Estate in which a lien may be perfected by the filing of a financing statement under the Uniform Commercial Code;

(4) stating that the conditions precedent provided for in this Indenture relating to the authentication and delivery of the initial issuance of such Additional Obligations have been complied with; and

(5) stating that such Additional Obligations, when executed by the Company, authenticated and delivered by the Trustee and issued by the Company (and, in the event of Obligations subject to a Periodic Offering, when the terms of such Additional Obligations have been established as provided in the manner contemplated by this Indenture or the Supplemental Indenture under which such Additional Obligations are established) will be the legal, valid and binding obligations of the Company enforceable in accordance with their terms and the terms of this Indenture and entitled to the benefits of and secured by the lien of this Indenture equally and ratably with all other Outstanding Secured Obligations.

D. The documents and any cash deposit specified in such Opinion of Counsel, which cash deposit, if any, shall be held by the Trustee as part of the Trust Estate and applied by the Trustee for the purpose specified in such Opinion of Counsel and, to the extent that the amount of such cash deposit proves to be excessive, returned to the Company upon Company Request.

In addition, Additional Obligations of any one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon the basis permitted by, and upon compliance with the conditions of, Section 4.6 (Conditional Obligations).

The Company will not apply for the authentication and delivery of Additional Obligations under this Article except for the purpose of their prompt sale, issuance or pledge or the creation of other security interests therein. In the event that the Company shall have applied for the authentication and delivery of Additional Obligations under this Article and thereafter, the Company shall not have sold, delivered or pledged, or created some other security interest in such Additional Obligations authenticated and delivered under this Article, within three (3) months after the date of their authentication, or, if such may be the case, upon the termination of such pledge of, or other security interest in, any such Additional Obligations initially pledged or subjected to a security interest, the Company shall surrender such Additional Obligations to the Trustee, whereupon such Additional Obligations, if not previously canceled, shall be canceled by the Trustee. The Additional Obligations, so surrendered shall thereafter be treated as though they had never been Outstanding. In addition, in the event that any portion of an Obligation or series of Additional Obligations shall not be advanced or issued, and the Company's right to receive and

advance or issue such portion terminated to the satisfaction of the Trustee, such portion shall thereafter be treated as though it had never been Outstanding.

Section 4.2 Authentication and Delivery of Additional Obligations Upon Basis of Bondable Additions.

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding 90.91% of the Bondable Additions (as determined below) available as a basis for such authentication and delivery as shown in item 7 of the Summary of Certificate as to Bondable Additions (the "Summary") delivered to the Trustee in accordance with this Section, upon receipt by the Trustee of the documents, instruments and cash referred to in this Section.

Whenever requesting (i) the authentication and delivery of Additional Obligations under this Section, (ii) loans and advances under Conditional Obligations under Section 4.6 upon the basis of Bondable Additions, (iii) the withdrawal of Deposited Cash under Section 4.8 upon the basis of Bondable Additions, (iv) the withdrawal of Trust Moneys under Section 6.2 upon the basis of Bondable Additions, (v) the use of Bondable Additions as a basis, in whole or in part, for the release of any part of the Trust Estate under Section ~~4.2, 5.2~~, (vi) the conversion of outstanding principal amounts under Section ~~5.10, 4.10~~ upon the basis of Bondable Additions, the Company shall deliver to the Trustee the relevant documents and instruments (comprising the related Application) specified in the following paragraphs A through H:

A. (i) In the case of a request for the authentication and delivery of Additional Obligations, the documents and any cash deposit required by Section 4.1 and an Available Margins Certificate; (ii) in the case of a request for a loan or advance under a Conditional Obligation under Section 4.6 upon the basis of Bondable Additions, the Available Margins Certificate, Officers' Certificate and Opinion of Counsel required by Section 4.6; (iii) in the case of a request for the withdrawal of Deposited Cash under Section 4.8 upon the basis of Bondable Additions, the Company Request, Board Resolution and Officers' Certificate required by Section 4.8; (iv) in the case of a request for the withdrawal of Trust Moneys under Section 6.2, the Company Request, Board Resolution and Officers' Certificate required by Section 6.2; (v) in the case of a request for the use of Bondable Additions as a basis for the release of any part of the Trust Estate under Section ~~6.2, 5.2~~, the relevant documents required by Section 5.2 in addition to those specified in the following paragraphs B through H below, which documents may be modified under certain circumstances as stated in the proviso to Section 5.2(D)(2); and (vi) in the case of a request for the conversion of outstanding principal amounts under Section 4.10 upon the basis of Bondable Additions, the documents required by Section 4.10.

B. A Certificate as to Bondable Additions, dated not more than thirty (30) days prior to the date of the related Application, showing in substance:

(1) In the case of the first Certificate as to Bondable Additions, \$ and, for each subsequent Certificate as to Bondable Additions, the balance (item 1 in the Summary), if any, of Bondable Additions stated in item 9 of the most

recent Summary, if any, theretofore delivered to the Trustee, as the balance of Bondable Additions to remain after the action applied for in connection with the most recent Summary.

(2) The Amount of Property Additions (item 2 in the Summary) not described in any previous Certificate as to Bondable Additions (except that the Amount of Property Additions may include the Amount of Property Additions described in any previous Certificate as to Bondable Additions and used as a basis for the authentication and delivery of Additional Obligations surrendered to the Trustee pursuant to the last paragraph of Section 4.1 or as the basis for any portion of an Obligation or series of Obligations which has not been loaned, advanced or issued and for which the right to receive a loan, advance under or issue of such Obligation has been terminated as provided in the last paragraph of Section 4.1). With respect to such Property Additions:

(a) The Certificate shall describe in reasonable detail, and state the Cost to the Company of, such Property Additions, which may include Property Additions to be acquired in connection with the granting of the related Application which shall be considered as already acquired for the purpose of computing the Amount of Property Additions. The Certificate shall state that none of such Property Additions has been described in any previous Certificate as to Bondable Additions (except Property Additions described in any previous Certificate as to Bondable Additions and used as the basis for the authentication and delivery of Additional Obligations surrendered to the Trustee pursuant to the last paragraph of Section 4.1 or as the basis for any principal amount of an Obligation or series of Obligations which has not been loaned or advanced or an Obligation or series of Obligations which has not been issued and for which the Company's right to receive a loan or advance under or to issue such Obligation has been terminated as provided in the last paragraph of Section 4.1). Except for major individual items, such Property Additions may be grouped by major classifications then being used by the Company in the maintenance of its fixed plant accounts and may, in the case of tracts or parcels of land or easements or rights-of-way, be described by reference to the deeds through which they were acquired or to the Supplemental Indenture conveying them to the Trustee. The Certificate shall separately describe any Property Additions consisting of a major item or an Acquired Facility or acquired and paid for in whole or in part through the transfer or delivery of securities or other property, together with a description of the kind and respective amounts of such securities or other property. The Cost to the Company shall be shown separately for each of such Property Additions which is separately described, whether described as a major item or as an Acquired Facility or as Property Additions acquired and paid for in whole or in part through the transfer or delivery of securities or other property. The Cost to the Company may be shown in the aggregate for all Property Additions grouped within each particular major classification and the Cost to the Company may be allocated among major items and major classifications by an estimate of such nature and upon such basis as the signers deem proper.

The Certificate shall also state the Fair Value to the Company, in the opinion of the Engineer or Appraiser signing such Certificate, of such Property Additions, separately for each item or group thereof for which Cost to the Company is shown separately in the Certificate; **PROVIDED, HOWEVER**, that if such Property Additions include an Acquired Facility, the Fair Value to the Company thereof shall be stated as being the amount thereof set forth in any Independent Engineer's or Independent Appraiser's Certificate required by paragraph C below. In addition the Certificate shall also state the fair market value, as stated in any Independent Appraiser's Certificate required by paragraph D below, of any securities or other property transferred or delivered to acquire or pay for any such Property Additions.

(b) The Certificate shall state that, with respect to each of such Property Additions or group thereof for which Cost to the Company is shown separately in the Certificate, the certified Amount of Property Additions is the lower of the certified Cost to the Company thereof and the certified Fair Value to the Company thereof.

(c) Nothing in this Section shall prevent the Company from certifying any Property Additions acquired by the Company during any period without certifying other Property Additions that the Company may have acquired in that or any other period, and by so doing the Company shall not lose the right so to certify later such other Property Additions.

(3) The aggregate amount of all Retirements (item 3 in the Summary) during the period from the date to which Retirements had been included in item 3 of the most recent Summary theretofore delivered to the Trustee (or, in the case of the first such Certificate, from the Cut-Off Date) to a date not earlier than the ninetieth (90th) day before the date of the related Application.

(4) The credits against Retirements (item 4 in the Summary), which shall equal, subject to the provisions of the last sentence of clause (5) below, the sum of the following:

(a) the excess of credits against Retirements carried forward from the most recent Certificate, as provided in the last sentence of clause (5) below;

(b) the aggregate amount of 100% of (i) any cash, (ii) purchase money obligations, (iii) the principal amount of retired Obligations or principal amounts paid on Obligations (which amount may not be reloaned or readvanced under such Obligations), and (iv) Bondable Additions, in each case, delivered or certified to the Trustee for use as a basis for release of any part of the Trust Estate under Section 5.2 during the period covered by clause (3) above; and

(c) all insurance moneys received by the Trustee pursuant hereto or paid to a trustee, mortgagee or other holder under a Prior Lien during the period covered by clause (3) above on account of the damage, loss or destruction of any Bondable Property.

(5) The net amount of Retirements (item 5 in the Summary) which net amount shall be determined by deducting the credits shown pursuant to clause (4) above (item 4 in the Summary) from the aggregate amount of Retirements shown pursuant to clause (3) above (item 3 in the Summary). If in any case the credits against Retirements exceed the aggregate amount of Retirements shown pursuant to clause (3) above (item 3 in the Summary), the net amount of Retirements for the purpose of this clause (5) shall be zero, but such excess of credits against Retirements shall be carried forward and used as a credit against Retirements in the next Certificate.

(6) The excess of the Amount of Property Additions (item 6 in the Summary) shown pursuant to clause (2) above (item 2 in the Summary) over the net amount of Retirements pursuant to clause (5) above (item 5 in the Summary) and such excess shall be the amount of net Bondable Additions then being certified.

(7) The sum (item 7 in the Summary) of the amount shown pursuant to clause (1) above (item 1 in the Summary) and the amount shown pursuant to clause (6) above (item 6 in the Summary), which sum is the total amount of Bondable Additions then available.

(8) The total amount of Bondable Additions (item 8 in the Summary) which are then being used, which shall equal (in any combination) (i) 110% of the aggregate principal amount of any Additional Obligations whose authentication and delivery are then being applied for under this Section, (ii) 110% of the aggregate principal amount of the loans or advances under Conditional Obligations which are then being applied for under Section 4.6, (iii) 110% of the amount of any Deposited Cash which is then being withdrawn under Section 4.8, (iv) 100% of any Trust Moneys which are then being withdrawn under Section 6.2, (v) 100% of any Bondable Additions which are then being used as a basis for a release of any part of the Trust Estate under Section 5.2 and (vi) 110% of the outstanding principal amount then being converted under Section 4.10.

(9) The balance of the Bondable Additions (item 9 in the Summary) shown by the Certificate that will remain after the granting of the Application then being made, which shall be computed by deducting the total amount shown pursuant to clause (8) above (item 8 in the Summary) from the sum shown pursuant to clause (7) above (item 7 in the Summary).

(10) Except when converting outstanding principal amounts under Section 4.10, if any of the Property Additions described in the Certificate were acquired with Certified Progress Payments:

(a) the amount of such Property Additions acquired with Certified Progress Payments; and

(b) the aggregate principal amount of the Additional Obligations authenticated and delivered upon the basis of the Certified Progress Payments used to acquire the Property Additions certified pursuant to paragraph (a) above that has been paid, redeemed or otherwise retired or defeased under Article VIII, which

shall equal at least 90.91% of the amount of Property Additions certified pursuant to paragraph (a) above.

(11) That the Property Additions described in the Certificate have not previously been certified for use as the basis for converting outstanding principal amounts under Section 4.10.

(12) That the Property Additions described in the Certificate, except such as have been Retired, are used or useful in the conduct of the business of the Company; that the allocation of the Cost to the Company of such Property Additions to each major item or classification thereof is, in the opinion of the signers, proper; that all property described in the Certificate as Property Additions qualifies as Property Additions and that the balance of the Bondable Additions to remain after the action applied for (item 9 in Summary) plus the Cost to the Company or the Fair Value to the Company, whichever is less, of uncertified Property Additions is at least equal to the aggregate amount of uncertified Retirements.

(13) That the allowances or charges, if any, for capitalized interest, taxes, engineering, legal and accounting costs and expenses, allocated administrative charges, insurance, casualties, supervisory fees and expenses and other expenses during construction (or in connection with the acquisition of Property Additions) which are included in the Cost to the Company of such of the Property Additions described in the Certificate as were constructed or acquired by or for the Company have been charged and are properly chargeable to fixed plant accounts in respect of such Property Additions in accordance with Accounting Requirements.

(14) That no portion of the Cost to the Company of the Property Additions described in the Certificate should properly have been charged to maintenance or repairs and that no expenditures are included in the Certificate which under Accounting Requirements are not properly chargeable to fixed plant accounts.

(15) That the terms used in the Certificate which are defined herein are used as herein defined.

The Certificate as to Bondable Additions required by this paragraph B shall be subdivided into lettered or numbered paragraphs corresponding to the foregoing clauses (1) to (9), inclusive, and shall include a Summary in substantially the following form:

Summary of Certificate as to Bondable

Additions No. (Number sequentially beginning with 1)

The undersigned hereby also certify that the following is a true Summary of Certificate as to Bondable Additions:

Start with:

1. In the case of the first Certificate as to Bondable Additions No. 1, \$ _____
\$ _____, and, in the case of any subsequent Certificate as to

Bondable Additions, the balance of Bondable Additions remaining after the action applied for in the next previous Certificate (Certificate No. _____)

Then take the new gross Property Additions as shown in item 2 below:

2. Amount of additional Property Additions now certified (none of which has been certified in any previous Certificate as to Bondable Additions) \$ _____

Then determine the deductions for Retirements by deducting item 4 below from item 3 below to produce item 5:

3. The aggregate amount of all Retirements \$ _____

4. The sum of the credits against Retirements \$ _____

5. The net amount of Retirements to be deducted (if less than zero, enter zero) \$ _____

Then determine the net Bondable Additions now being certified by deducting item 5 from item 2 to produce item 6:

6. Net Bondable Additions now being certified \$ _____

Then add item 1 and item 6 to produce item 7:

7. Total Bondable Additions available for the action applied for \$ _____

8. Bondable Additions now being used for the action applied for \$ _____

Deduct item 8 from item 7 to produce item 9:

9. Balance of Bondable Additions that will remain after the action applied for \$ _____

Dated _____

(Title)

(Title)

(Engineer or Appraiser)

(Accountant)

C. In case any Property Additions described in the Certificate consist of an Acquired Facility, an Engineer's or Appraiser's Certificate (which shall be given by an Independent Engineer or Independent Appraiser if the Amount of Property Additions attributed to such Acquired Facility is not less than \$1,000,000 (\$25,000 if this Indenture is qualified under the TIA) and not less than 1% of the aggregate principal amount of Obligations then Outstanding, dated within ninety (90) days prior to the date of the related Application, stating, in the opinion of the signer, the Fair Value to the Company of the Property Additions constituting such Acquired Facility, except such as have been Retired.

D. In case any Property Additions described in the Certificate have been acquired or paid for in whole or in part through the transfer or delivery of securities or other property, an Appraiser's Certificate (which shall be given by an Independent Appraiser ~~and~~ if the fair market value of such securities as set forth in such Certificate is not less than \$1,000,000 (\$25,000 if this Indenture is qualified under the TIA) and not less than 1% of the aggregate principal amount of Obligations then Outstanding stating, in the opinion of the signer, the fair market value of such securities and other property at the time of the transfer or delivery thereof in payment for such Property Additions, which fair market value shall be deemed to be, in whole or in part, as the case may be, the Cost to the Company of such Property Additions.

E. Such Supplemental Indenture or other instruments of conveyance, transfer and assignment as may be necessary to subject to the lien of this Indenture as a part of the Trust Estate all right, title and interest of the Company in and to the Property Additions so described and an Opinion of Counsel identifying such Supplemental Indenture or other instruments of conveyance or stating that no such Supplemental Indenture or other instrument is necessary for such purpose.

F. An Opinion of Counsel, dated within five (5) days prior to the date of the Application, stating that:

(1) if such Property Additions include any property located or constructed on, over or under public highways, rivers or other public property, the Company has the right under permits or franchises granted by a governmental body having jurisdiction or by the law of the state in which such property is located to maintain and operate such property for an unlimited, indeterminate or indefinite period of time or for the period, if any, specified in such permit, franchise or law, and to remove such property at the expiration of the period covered by such permit, franchise or law, or that the terms of such permit, franchise or law require any public authority having the right to take over such property to pay fair consideration therefor or the term of such permit or franchise extends beyond the useful life of such property;

(2) the Company has corporate power to own and operate such Property Additions; and

(3) the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture for an Application for the action applied for and, upon the basis of such Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for, the release of any part of the Trust Estate then requested, the withdrawal of the

Deposited Cash or Trust Moneys then requested or the conversion of outstanding principal amounts under Section 4.10 of Bondable Additions then requested have been complied with.

G. Title Evidence indicating that the Company has or, contemporaneously with the taking of the action applied for, will have, or, in the case of property of the type described in paragraph C of the definition of “Property Additions” at the time the lien of this Indenture attached thereto, had, title to the Property Additions described in the Certificate (except Property Additions that have been Retired).

H. To the extent not otherwise covered by the Title Evidence provided pursuant to paragraph G above, an Opinion of Counsel, dated within five (5) days prior to the date of the Application, stating that (i) the Company has or, contemporaneously with the taking of action applied for, will have duly obtained any easement, right-of-way or leasehold which is described in the Certificate, subject only to Permitted Exceptions, and (ii) the Indenture is or, upon delivery of the instruments of conveyance, transfer or assignment, if any, specified therein, will be a valid lien upon all such Property Additions (except Property Additions that have been Retired), and subject only to Permitted Exceptions and Prior Liens permitted by the proviso to Section 5.2D(2); **PROVIDED**, that the opinion contained in clause (ii) above may be limited, with respect to personal property, to such Property Additions in which a lien may be perfected by the filing of a financing statement under the Uniform Commercial Code.

Section 4.3 Authentication and Delivery of Additional Obligations Upon Basis of Retirement or Defeasance of Obligations or Principal Payments on Obligations.

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding the aggregate principal amount of Obligations, and the aggregate amount of principal payments on Obligations, made the basis for such authentication and delivery, upon receipt by the Trustee of the following:

A. The documents and any cash deposit required by Section 4.1.

B. Obligations (other than Obligations identified in paragraph D below) authenticated and delivered under this Indenture, whether or not in transferable form, matured or unmatured, canceled or uncanceled, in an aggregate principal amount which, when added to the aggregate amount of principal payments, if any, on Obligations referred to in paragraph C below, will equal the aggregate principal amount of Additional Obligations whose authentication and delivery are then applied for under this Section; **PROVIDED, HOWEVER**, that, in lieu of delivering Obligations to the Trustee, the Company may deposit with or deliver to the Trustee any one or more of the following:

(1) cash sufficient to pay at Stated Maturity or to redeem certain specified Obligations, **PROVIDED** that, if Obligations are to be redeemed, notice of such

redemption shall have been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee shall have been made; or

(2) an Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating either or both of:

(a) that cash sufficient (such sufficiency to be established by the opinion of a nationally recognized firm of Independent public accountants in a certificate signed by such firm and delivered to the Trustee) to pay or redeem certain specified Obligations is then held by the Trustee in trust for such purpose and, if such Obligations are to be redeemed, that irrevocable notice of such redemption has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made; and

(b) that certain specified Obligations have been paid, redeemed or otherwise retired or have ceased to be Outstanding; or

(3) an Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating that certain specified Obligations have been defeased under Article VII and are no longer Outstanding.

C. An Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating the aggregate amount of principal payments that have been made on specified Obligations (other than Obligations identified in paragraph D below) which, when added to the aggregate principal amount of the Obligations delivered to or with respect to which a deposit or delivery has been made with the Trustee pursuant to paragraph B above, will equal the aggregate principal amount of Additional Obligations whose authentication and delivery are then applied for under this Section; **PROVIDED, HOWEVER**, that in lieu of delivery of such Officers' Certificate, the Company may deposit with or deliver to the Trustee cash sufficient to make principal payments on the certain specified Obligations in the aggregate amount otherwise required to be stated in such Officers' Certificate.

D. An Officers' Certificate, dated within five (5) days of the Application for the authentication and delivery of such Additional Obligations, stating that the Obligations and the amount of principal payments on Obligations made the basis for the authentication and delivery of such Additional Obligations do not include:

(1) any Obligation or any principal payment on an Obligation which shall have theretofore been made, or is currently otherwise being made, the basis for the authentication and delivery of Additional Obligations (or any loan, advance thereunder or issuance thereof), the release of any part of the Trust Estate, the withdrawal or application of Deposited Cash or Trust Moneys; or

(2) any Obligation (i) whose payment, redemption or other retirement, or provision therefor, has been effected through the operation of any sinking, amortization, improvement or other analogous fund and (ii) whose use under this Article is at the time precluded by any provision of this Indenture; or

(3) any Obligation which has been surrendered upon any exchange or transfer or any Obligation in lieu of which another Obligation has been authenticated and delivered under Section 3.8; or

(4) any Obligation which, in accordance with the last paragraph of Section 4.1, is treated as though it had never been Outstanding; or

(5) any Obligation or any principal payment on an Obligation retired or paid pursuant to or by an advance or loan under an Obligation held by a Credit Enhancer and evidencing Credit Enhancement; or

(6) any Obligation authenticated and delivered on the basis of Certified Progress Payments or any principal payment of amounts outstanding under an Obligation on the basis of Certified Progress Payments unless such Obligation or principal payment has been paid, redeemed, or otherwise retired or defeased under Article VIII using the proceeds of the Additional Obligations whose authentication and delivery are then being applied for (and each such Additional Obligation, or principal amount loaned or advanced thereunder, shall be deemed to have been authenticated and delivered or, in the case of a loan or advance, made on the basis of Certified Progress Payments).

E. An Opinion of Counsel stating that the actions taken by the Company under this Section with respect to the delivery of documents and cash and/or Obligations to the Trustee conform to the requirements of this Indenture and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for have been complied with.

F. An Available Margins Certificate.

Every Obligation received by the Trustee and on the basis of which an Additional Obligation is authenticated and delivered under this Article, if not already canceled, shall be promptly canceled and thereafter the Trustee may retain such Obligation or may destroy such Obligation as provided in Section 3.11.

Section 4.4 Authentication and Delivery of Additional Obligations Upon Deposit of Cash with Trustee.

Additional Obligations of one or more new series, or Additional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Additional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon receipt by the Trustee of the following:

A. The documents and any cash deposit required by Section 4.1.

B. Cash (which may be cash representing the purchase price of, or the proceeds of a loan or advance evidenced by the Additional Obligations to be authenticated and delivered under this Section 4.4) equal to the aggregate principal amount of the Additional Obligations whose authentication and delivery are then applied for under this Section (such cash being herein sometimes referred to as “**Deposited Cash**”).

C. An Opinion of Counsel stating that the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture and that, upon the deposit of an amount of cash equal to the aggregate principal amount of the Additional Obligations whose authentication and delivery are then applied for, the conditions precedent provided for in this Indenture relating to the authentication and delivery of such Additional Obligations shall have been complied with.

D. An Available Margins Certificate.

Section 4.5 [Intentionally omitted.]

Section 4.6 Authentication and Delivery of Conditional Obligations; Loans or Advances Thereunder.

Conditional Obligations are Additional Obligations authenticated and delivered as provided in this Section, and under which no principal amount is outstanding thereunder at the time of such authentication and delivery.

Conditional Obligations of one or more new series, or Conditional Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Conditional Obligations shall be authenticated and delivered by the Trustee upon Company Request, upon receipt by the Trustee of the documents and cash deposit, if any, specified in paragraphs A, B, C and D of Section 4.1 (except that the Officers' Certificate and Opinion of Counsel with respect to the compliance with conditions precedent shall apply only to the conditions precedent set forth in Section 4.1).

Loans or advances under a Conditional Obligation shall only be made upon the delivery of a written certification by the Trustee under this Section. For purposes of the other Sections of this Indenture, each loan or advance under a Conditional Obligation shall be treated as though an Additional Obligation in an aggregate principal amount equal to the amount of the loan or advance was being authenticated and delivered under the applicable Section of this Indenture referred to in paragraph A below, and all references to Additional Obligations so authenticated and delivered shall include loans or advances made under Conditional Obligations on the same basis. Upon Company Request, the Trustee shall deliver to the Company a written certification upon receipt by the Trustee of the following:

A. Either (i) the relevant documents specified in paragraphs B through H, inclusive, of Section 4.2, (ii) the relevant documents, Obligations or principal payments on Obligations specified in paragraphs B, C, D and E of Section 4.3, or (iii) the relevant documents specified in paragraphs C through E, inclusive, of Section 4.9 (in each case with such omissions and variations as are appropriate in view of the fact that such Sections are being used as the basis for loans or advances under Conditional Obligations rather than the authentication and delivery of Additional Obligations), which documents would permit the authentication and delivery of Additional Obligations in an aggregate principal amount equal to such requested loan or advance.

B. An Available Margins Certificate.

C. An Officers' Certificate and an Opinion of Counsel each stating that the conditions precedent provided for in this Indenture for the Trustee to deliver a written certificate with respect to such loan or advance have been complied with.

For the purposes of (i) receiving payment on Conditional Obligations, whether at Stated Maturity, upon redemption or if the principal of all Obligations is declared immediately due and payable following an Event of Default, as provided in Section 8.1 of this Indenture, or (ii) computing the principal amount of such Conditional Obligations in connection with any exercise of remedies or Act on the part of the Holder thereof, the principal amount of such Conditional Obligations shall equal the aggregate of the amounts loaned or advanced to, or on behalf of, the Company thereunder, less any repayments thereof.

Each written certification required to be delivered by the Trustee under this Section shall state that the Trustee has received the relevant documents specified in paragraphs A through C above and the amount of the loan or advance permitted under this Section by virtue of the delivery of such documents.

Section 4.7 Authentication and Delivery of Credit Enhancement Obligations.

Additional Obligations of one or more new series, or Additional Obligations of an existing series ("Credit Enhancement Obligations"), may from time to time be executed by the Company and delivered to the Trustee for authentication, and such Credit Enhancement Obligations shall be authenticated and delivered by the Trustee upon Company Request, in connection with the authentication and delivery of any Additional Obligations pursuant to Section 4.2, 4.3, 4.4, 4.5, 4.6 or 4.9, for the purpose of evidencing the Company's obligation to repay amounts paid by the Credit Enhancer on an Additional Obligation or any loan or advance made to, or on behalf of, the Company (and related interest, fees, charges and other amounts) in connection with Credit Enhancement or liquidity support of the Additional Obligations in connection with which the Credit Enhancement Obligations are authenticated and delivered; **PROVIDED, HOWEVER,** that the stated maximum principal amount of any such Credit Enhancement Obligations shall not exceed the aggregate principal amount of the Obligations with respect to which such Credit Enhancement or liquidity support is being provided, plus an amount equal to such number of days' interest thereon as the Company shall determine (but in no event in excess of 180 days) in connection with (as provided in the Supplemental Indenture) the issuance thereof computed at the maximum interest rate applicable thereto, and the Credit Enhancement Obligation may also evidence the Company's obligation to pay related fees and other charges related thereto or the enforcement thereof. Except as otherwise provided in a Supplemental Indenture, for the purposes of (i) receiving payment on a Credit Enhancement Obligation, whether at Stated Maturity, upon redemption or if the principal of all Obligations is declared immediately due and payable following an Event of Default, as provided in Section 9.1 of this Indenture, or (ii) computing the principal amount of any Credit Enhancement Obligation in connection with any Act on the part of the Holder, the principal amount of a Credit Enhancement Obligation shall be the actual principal amount that the Company shall owe thereon at the time as a consequence of payments made or loans or advances to or for the account of the Company. The proceeds of any payment pursuant to, or any loan or advance under, any Credit Enhancement Obligation shall be used solely for the payment of the related Obligation or for the enforcement of, or protection of the security for, such Credit Enhancement Obligation, and for other related fees and charges.

Section 4.8 Withdrawal and Payment of Deposited Cash.

Until applied as provided in a Company Request as provided in this Section, the Trustee shall hold all Deposited Cash as a part of the Trust Estate. Upon any sale of the Trust Estate or any part thereof under Article IX, any Deposited Cash then held by the Trustee shall be applied in accordance with Section 8.7; but, prior to the date of any such sale, all or any part of the Deposited Cash shall be applied by the Trustee from time to time as provided in this Section.

From time to time, whenever the Company may be entitled to the authentication and delivery of Additional Obligations under Section 4.2 (upon the basis of Bondable Additions) or under Section 4.3 (upon the basis of retirement or defeasance of, or principal payments on, Obligations), the Trustee shall (in lieu of authenticating and delivering Additional Obligations) pay to or as directed by the Company upon Company Request, and the Company shall be entitled to withdraw and receive or direct payment of, Deposited Cash in an amount equal to the principal amount of the Additional Obligations to whose authentication and delivery the Company would be entitled, upon receipt by the Trustee of the following:

A. A Board Resolution requesting the withdrawal and payment to, or as directed by, the Company of Deposited Cash.

B. An Officers' Certificate, dated within five (5) days of the date of the Application for such withdrawal and payment, stating that no Event of Default exists and that the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

C. In the case of an Application for the withdrawal and payment of Deposited Cash upon the basis of Bondable Additions, the additional documents specified in Section 4.2 (other than an Available Margins Certificate) for delivery whenever requesting the use of Bondable Additions as a basis for such withdrawal of Deposited Cash under this Section.

D. In the case of an Application for the withdrawal and payment of Deposited Cash upon the basis of the retirement or defeasance of, or principal payments on, Obligations, the documents, Obligations or principal payments on Obligations specified in paragraphs B, C, D and E of Section 4.3 for delivery to the Trustee (with such omissions and variations as are appropriate in view of the fact that the Application requests the withdrawal and payment of Deposited Cash and not the authentication and delivery of Additional Obligations), together with an Opinion of Counsel stating that the conditions precedent provided for in this Indenture relating to such withdrawal and payment of Deposited Cash have been complied with.

Section 4.9 Authentication and Delivery of Additional Obligations Upon Basis of Certified Progress Payments.

Additional Obligations of one or more new series, or Obligations of an existing series, may from time to time be executed by the Company and delivered to the Trustee for authentication, and thereupon such Obligations shall be authenticated and delivered by the Trustee upon Company Request, in an aggregate principal amount up to but not exceeding ~~90.9180%~~ 90.9180% of the Certified Progress Payments made the basis for such authentication and delivery, upon receipt by the Trustee of the following:

- A. The documents and any cash deposit required by Section 4.1.
- B. An Available Margins Certificate.
- C. An Officers' Certificate, dated within five (5) days of the relevant Application for the authentication and delivery of Additional Obligations, stating:
- (1) the total amount of Certified Progress Payments which are then being made the basis for the authentication and delivery of Additional Obligations, which shall equal 110% of the aggregate principal amount of Additional Obligations whose authentication and delivery are then being applied for under this Section;
 - (2) that the sum of (i) the aggregate principal amount of all Additional Obligations then Outstanding that were originally authenticated and delivered on the basis of Certified Progress Payments to the extent such principal amount has not been converted under Section ~~5.404.10~~ plus (ii) the aggregate principal amount of the Additional Obligations whose authentication and delivery are then being applied for under this Section does not exceed ~~4030%~~ of the sum of (a) the aggregate principal amount of all Obligations then Outstanding plus (b) the aggregate principal amount of the Additional Obligations whose authentication and delivery are then being applied for under this Section; and
 - (3) that the Certified Progress Payments then being made the basis for the authentication and delivery of Additional Obligations do not include any Certified Progress Payments which shall have theretofore been made, or are otherwise currently being made, the basis for the authentication and delivery of Additional Obligations (or any advance or issuance thereunder).
- D. Unless delivery is waived by the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, a Performance Agreement that (i) names the Company and Trustee as obligees, indemnitees or beneficiaries, (ii) contains a stated penal sum or other amount payable thereunder in an amount not less than the Qualified EPC Contract price; (iii) covers the applicable Qualified EPC Contract under which the Certified Progress Payments then being certified for use as the basis for the authentication and delivery of Additional Obligations have been made, and (iv) is issued by a Person qualified to issue such Performance Agreement and who possesses an A.M. Best Company rating of "A-" or better or an equivalent rating from another Person providing such rating services
- E. An Opinion of Counsel stating that the applicable Qualified EPC Contract is part of the Trust Estate and that the actions taken by the Company under this Section with respect to the delivery of documents to the Trustee conforms to the requirements of this Indenture and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the authentication and delivery of the Additional Obligations therein applied for have been complied with.
- F. Prior to filing the Officers' Certificate specified in paragraph C above, the Company shall provide written notice to each Rating Agency then rating the Company or any of the Obligations. Such written notice shall specify (i) the principal amount of Additional

Obligations whose authentication and delivery is to be requested; (ii) the terms of any sinking, amortization, improvement or other analogous fund or the terms of any provision for the payment of principal by installments or otherwise with respect to such Additional Obligations; and (iii) the completion date, or the terms for establishing the completion date, under the related Qualified EPC Contract. In addition, until such completion date, the Company shall promptly deliver to each such rating agency quarterly financial statements, including a statement of income, a balance sheet, a statement of cash flows and a computation of the Margins for Interest Ratio for the twelve month period ending on the last day of such quarter.

G. In the event the Company requests the authentication and delivery of Conditional Obligations under Section 4.6, under which loans or advances are to be made on the basis of Certified Progress Payments as provided in Section 4.6A(viii), the required prior written notice to rating agencies shall be given prior to the authentication and delivery of the Conditional Obligations under Section 4.6 and shall not be required at the time of delivery of the Officers' Certificate in connection with each loan or advance.

Section 4.10 Conversion of Additional Obligations.

From time to time, upon Company Request, all or a portion of the principal amount outstanding under Additional Obligations originally authenticated and delivered upon the basis of Certified Progress Payments under Section 4.9 or under Additional Obligations, under which loans or advances were made upon the basis of Certified Progress Payments under Section 4.9, shall be converted to principal amounts outstanding under Additional Obligations deemed to have been authenticated and delivered upon the basis of Bondable Additions under Section 4.2, in an aggregate principal amount up to but not exceeding ~~90.91~~80.00% of Bondable Additions acquired with the proceeds of Certified Progress Payments and made the basis for such conversion as shown in item 8 of the Summary of Certificate as to Bondable Additions delivered to the Trustee under this Section, upon receipt by the Trustee of the following:

A. The relevant documents specified in paragraphs B through H, inclusive, of Section 4.2 for delivery to the Trustee whenever requesting the use of Bondable Additions as the basis for converting principal amounts outstanding under Additional Obligations under this Section.

B. An Officers' Certificate, dated within five (5) days of the relevant Application requesting the conversion of principal amounts outstanding under Additional Obligations under this Section, stating that:

- (1) no Event of Default exists;
- (2) the conditions precedent provided for in this Indenture relating to such conversion have been complied with; and
- (3) identifying the Additional Obligations all or a portion of the principal amount of which is to be converted under this Section and specifying the principal amount to be converted.

C. An Opinion of Counsel stating that the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, and that, upon the basis of

the Application, the conditions precedent provided for in this Indenture relating to the conversion of principal amounts outstanding under Additional Obligations under this Section have been complied with.

Upon compliance with the foregoing provisions of this Section, the principal amount outstanding under Additional Obligations specified in the Officers' Certificate delivered to the Trustee pursuant to paragraph B above shall be converted. By virtue of such conversion, and notwithstanding any other provision of this Indenture, (i) such specified principal amount shall be deemed always to have been outstanding under Additional Obligations authenticated and delivered under Section 4.2 and never to have been outstanding under Additional Obligations upon the basis of Certified Progress Payments and (ii) Property Additions acquired with Certified Progress Payments made the basis for the authentication and delivery of such specified principal amount so converted shall be deemed never to have been acquired with Certified Progress Payments.

ARTICLE V

UTILIZATION AND RELEASES OF TRUST ESTATE

Section 5.1 Right of Company to Possess, Utilize and Operate Trust Estate; Releases and Dispositions without Release.

So long as no Event of Default shall exist, subject only to the express limitations of this Indenture, the Company shall have the right to (i) possess, use, manage, operate and enjoy the Trust Estate (other than any cash and securities constituting part of the Trust Estate that are deposited with the Trustee), (ii) use and consume such materials, equipment, fuel and supplies as may be necessary or appropriate to generate, transmit and distribute electricity or operate the System; (iii) collect, receive, use, make payments from, transfer, invest, otherwise utilize or employ amounts constituting or derived from the rents, issues, tolls, earnings, profits, revenues, products and proceeds from the Trust Estate or the operation of the property constituting part of the Trust Estate; (iv) freely and without restriction on the part of the Trustee or of the Holders, explore for, gather, cut, mine and produce crops, timber, coal, ore, gas, oil, minerals or other natural resources and products, and to use, consume and dispose of any thereof; (v) in the ordinary course of business alter, repair and change the position or location of any of its lines, railroads, mines, mills, warehouses, buildings, works, structures, machinery, equipment and other property, **PROVIDED** that such alterations, repairs or changes shall not materially diminish the value thereof or impair the lien of this Indenture thereon; and (vi) deal with, exercise any and all rights under, receive and enforce performance under, modify or amend, and adjust and settle all matters relating to choses in action, leases, contracts and other agreements.

Without limiting the rights of the Company set forth in the preceding paragraph of this Section or otherwise, the Company shall have the right, at any time and from time to time, if no Event of Default shall exist, freely and without restriction on the part of the Trustee or of the Holders, and without any release from or consent by the Trustee,

A. to sell, exchange or otherwise dispose of, free and clear of the lien of this Indenture, any or all machinery, equipment, furniture, apparatus, tools or implements, materials or supplies or

other property subject to the lien hereof, which shall have become old, inadequate, obsolete, worn out, unfit, unadaptable, unserviceable, undesirable or unnecessary for use in the operations of the Company, upon substituting for the same other machinery, equipment, furniture, apparatus, tools or implements, materials or supplies or other similar property not necessarily of the same character but of at least equal value to the Company as the property disposed of, which shall forthwith become, without further action, subject to the lien of this Indenture; and no purchaser of any such property shall be bound to inquire into any question affecting the right of the Company to sell or otherwise dispose of the same free and clear of the lien of this Indenture;

B. to abandon, terminate, cancel or release, free and clear of the lien of this Indenture, or amend, make alterations in or substitutions for any lease, contract, easement, right-of-way or other agreement subject to the lien hereof, **PROVIDED** that any amended, altered or substituted lease, contract, easement, right-of-way or other agreement shall forthwith, without further action, become subject to the lien of this Indenture to the same extent as those previously existing and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for such abandonment, termination, cancellation, release, amendment, alteration or substitution, such money (to the extent it exceeds \$100,000 per abandonment, termination, cancellation, release, amendment, alteration or substitution) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

C. to surrender, free and clear of the lien of this Indenture, or modify any franchise, right (charter and statutory), license or permit subject to the lien hereof which it may own or hold or under which it may be operating, **PROVIDED** that, in the opinion of the Board of Directors or an Officer of the Company, the preservation of such franchise, right, license or permit is no longer reasonably necessary, or with respect to any modification, that such modification is desirable, in the conduct of the business of the Company, **PROVIDED FURTHER** that the exercise of the right of any governmental authority, municipality or other political subdivision to terminate a franchise, right, license or permit shall not be deemed to be a surrender or modification of the same, and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for such surrender or modification, such money (to the extent it exceeds \$100,000 per surrender or modification) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

D. to grant rights-of-way, easements, licenses and permits over or in respect of any property constituting part of the Trust Estate, or release or cancel rights-of-way, easements, licenses and permits constituting part of the Trust Estate, free and clear of the lien of the Indenture, **PROVIDED** that, in the opinion of the Board of Directors or an Officer of the Company, no such grant will in any material respect impair the usefulness of such property in the conduct of the Company's business and such release or cancellation does not affect any right-of-way, easement, license or permit that is reasonably necessary to the operation of the Company's business, and **PROVIDED FURTHER** that, if the Company shall receive any money or property as consideration or compensation for any such grant, release or cancellation, such money (to the extent it exceeds \$100,000 per grant, release or cancellation) or property, promptly upon its receipt by the Company, shall be deposited with the Trustee (unless otherwise required by a Prior Lien) or otherwise subjected to the lien of this Indenture;

E. to demolish, dismantle, tear down, use for scrap or abandon any property constituting part of the Trust Estate, free and clear of the lien of this Indenture, if, in the opinion of the Board of Directors or an Officer of the Company, such demolition, dismantling, tearing down, scrapping or abandonment is desirable in the conduct of the business of the Company and the value and utility of the Trust Estate as an entirety will not thereby be materially impaired;

F. to alter, repair, replace, change the location or position of and add to its plants, structures, machinery, systems, equipment, fixtures and appurtenances, **PROVIDED** that no change shall be made in the location of any such property subject to the lien of this Indenture which would remove such property into a jurisdiction if this Indenture and any required financing or continuation statement covering security interests in such property have not been recorded, registered or filed in the manner required by law to preserve the lien of this Indenture on such property or which would otherwise in any material respect impair the lien of this Indenture with respect to such property;

G. to deal in, sell, dispose of or otherwise use inventory which is subject to the lien of this Indenture in the ordinary course of the Company's business, and to collect or liquidate accounts which are subject to the lien of this Indenture in the ordinary course of the Company's business; and

H. to sell, lease, sublease or otherwise dispose of any property constituting part of the Trust Estate, subject to the lien of this Indenture, **PROVIDED** that the Company shall maintain possession and control of such property pursuant to a lease or sublease meeting the requirements of paragraph C of the definition of "Property Additions."

The Trustee shall, from time to time, execute a written instrument to evidence and confirm any action taken by the Company under this Section, upon receipt by the Trustee of (i) a Board Resolution or Officers' Certificate requesting the same and expressing any required opinions, (ii) an Officers' Certificate stating that no Event of Default exists and that said action was duly taken in conformity with a designated paragraph of this Section, and (iii) an Opinion of Counsel stating that said action was duly taken by the Company in conformity with this Section and that the execution of such written instrument by the Trustee confirms such action under this Section.

Section 5.2 Releases.

The Company shall have the right, at any time and from time to time, to sell, exchange or otherwise dispose of any part of the Trust Estate free and clear of the lien of this Indenture (except cash, Pledged Securities and other personal property held by, or required to be deposited with, the Trustee hereunder) and the Trustee shall, from time to time, release property so sold, exchanged or otherwise disposed of from the lien of this Indenture, but only upon receipt by the Trustee of the items specified in this Section. The Company shall also have the right, at any time and from time to time, to have any part of the Trust Estate released from the lien of this Indenture without selling, exchanging or otherwise disposing of such part of the Trust Estate, and the Trustee shall, from time to time, release such property from the lien of this Indenture, but only upon receipt by the Trustee of the following:

A. A Board Resolution requesting such release and describing the property to be released; **PROVIDED, HOWEVER**, that no Board Resolution shall be required as to any item of property if the Officers' Certificate delivered pursuant to paragraph B below states that the value of such item of property to be released does not exceed \$5,000,000.

B. An Officers' Certificate (hereinafter called a "Release Certificate"), dated not more than thirty (30) days prior to the date of the Application for such release and signed, in the case of the following clause (2), by an Engineer, and, in the case of the following clauses (5) and (6), by an Engineer or an Appraiser, setting forth in substance as follows:

(1) identifying the property requested to be released;

(2) that

(a) such release is desirable in the conduct of the business of the Company and such property is not reasonably necessary in the conduct of the business of the Company, or

(b) any sale, exchange or other disposition of the property has been or is to be made in lieu of reasonable anticipation of the taking of such property by eminent domain by the United States of America or a designated state, municipality or other governmental authority having the power to take such property by eminent domain, or

(c) any sale, exchange or other disposition of the property has been or is to be made in lieu of reasonable anticipation of the exercise of a right of the United States of America or a designated state, municipality or other governmental authority to purchase, or designate a purchaser or order the sale of, such property, or

(d) such release is in connection with the sale and leaseback of any property;

(3) that no Event of Default exists;

(4) that, in the opinion of the signers, the proposed release will not impair the security under this Indenture in contravention of the provisions (including those which permit such release) hereof and that all conditions precedent provided for in this Indenture relating to such release have been complied with;

(5) the fair value, in the opinion of said Engineer or Appraiser, of the property to be released at the date of the Release Certificate; and if, by virtue of clause (7) of this paragraph, any of the property to be released shall be separately described in the Release Certificate, the fair value of such property shall be separately stated; **PROVIDED, HOWEVER**, that it shall not be necessary under this clause to state the fair value of any property whose fair value is certified in an Independent Engineer's or Independent Appraiser's Certificate under paragraph C below;

(6) whether

(a) the aggregate of the fair value of the property to be released at the date of the Release Certificate and the fair value of all securities or other property released since the commencement of the then current calendar year (as previously certified to the Trustee in connection with releases) is 10% or more of the aggregate principal amount of all Obligations at the time Outstanding and whether the fair value of the property to be released is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal amount of all Obligations at the time Outstanding, or

(b) the fair value of the property to be released at the date of the Release Certificate is more than \$5,000,000.

and, if all the facts specified in either clause (a) or (b) above are present, that a certificate of an Independent Engineer or Independent Appraiser as to the fair value of the property to be released will be furnished under paragraph C below; and

(7) whether any purchase money obligations to be delivered to the Trustee or to be certified as delivered to the trustee, mortgagee or other holder of a Prior Lien under paragraph D(4) below are to be secured by a purchase money mortgage on less than all the property to be released; and, if so, the property to be covered by such purchase money mortgage shall be separately described.

C. In case it shall be stated pursuant to paragraph B(6) above that the same will be furnished, a certificate of an Independent Engineer or Independent Appraiser, dated not more than thirty (30) days prior to the date of the Application for such release, stating the fair value, in the Independent Engineer's or Independent Appraiser's opinion, at the date of the Release Certificate of the property to be released, and stating separately the fair value of any such property separately described pursuant to paragraph B(7) above and stating also that, in the opinion of the Independent Engineer or Independent Appraiser, the proposed release will not impair the security under this Indenture in contravention of the provisions hereof.

D. Cash equal to the fair value, as certified pursuant to this Section, of the property to be released; **PROVIDED, HOWEVER**, that, no cash deposit will be required if the Officers' Certificate delivered pursuant to paragraph B above states that the value of each item of property to be released does not exceed \$100,000 and the value of all property released during the current calendar year under this proviso does not exceed \$5,000,000; and **PROVIDED FURTHER** that, in lieu of all or any part of such cash, the Company shall have the right to deposit and pledge with or deliver to the Trustee any of the items described in the following clauses of this paragraph:

(1) purchase money obligations secured by a mortgage or similar instrument (hereinafter in this paragraph called a "mortgage") on the property to be released or the portion thereof separately described pursuant to paragraph B(7) above, maturing not more than 10 years after the date of the deposit thereof and not exceeding in principal amount 80% of the fair value of the property covered by such purchase money mortgage, as certified pursuant to paragraph B(5) or C above, which purchase money obligations and the

mortgage securing the same shall be duly assigned to and deposited and pledged with the Trustee, shall be accompanied by an Officers' Certificate stating that the aggregate unpaid principal amount of all purchase money obligations received by the Trustee under this clause and then deposited and pledged with it (including those then being deposited and pledged with the Trustee), together with all those then and theretofore delivered to and then held by any trustees, mortgagees or other holders of Prior Liens under clause (4) below, does not exceed 10% of the aggregate principal amount of all Obligations then Outstanding and shall be received by the Trustee at their principal amount in lieu of cash;

(2) whenever Bondable Additions are used as a basis, in whole or in part, for the release of any part of the Trust Estate under this Section, the relevant documents specified for delivery in paragraphs B through H, inclusive, of Section 4.2, said documents to be received by the Trustee in lieu of cash up to the Bondable Additions thereby certified; **PROVIDED, HOWEVER**, that if all the property to be released was, immediately before any sale, exchange or other disposition thereof Non-Bondable Property, subject to a Prior Lien, the Bondable Additions being used as a basis for such release may be subject to the same Prior Lien without any deduction for the Prior Lien Obligations thereby secured in computing such Bondable Additions and said documents may be modified accordingly;

(3) whenever Obligations previously or concurrently retired or defeased or principal payments on Obligations are used as a basis, in whole or in part, for the release of any part of the Trust Estate under this Section, the relevant documents and Obligations specified for delivery in paragraphs B, C, D and E of Section 4.3 (with such omissions and variations as are appropriate in view of the fact that the Obligations described therein as previously or concurrently retired or defeased or principal payments on Obligations are being used as the basis for the release of any part of the Trust Estate), said documents to be received by the Trustee in lieu of cash up to an amount equal to the principal amount of Obligations previously or concurrently retired or defeased or principal payments on Obligations and in either case not previously used as a basis for the issuance of Additional Obligations or the withdrawal of Deposited Cash;

(4) a certificate of the trustee, mortgagee or other holder of a Prior Lien on all or any part of the property to be released, stating that a specified amount of cash or a specified principal amount of purchase money obligations of the character described in clause (1) above and representing proceeds of the sale of such property have been deposited with such trustee, mortgagee or other holder pursuant to the requirements of such Prior Lien, such certificate to be received by the Trustee in lieu of cash equal to the cash and the principal amount of the purchase money obligations so certified to have been deposited with such trustee, mortgagee or other holder, **PROVIDED** there shall also be delivered to the Trustee an Officers' Certificate stating that such property to be released was subject to such Prior Lien, which shall be briefly described or otherwise identified, and that the aggregate principal amount of all purchase money obligations received by the Trustee under clause (1) of this paragraph and then deposited and pledged with it, together with all those then and theretofore delivered to and then held by any trustees, mortgagees or other holders of Prior Liens under this clause, does not exceed 20% of the aggregate principal amount of all Obligations then Outstanding;

(5) an Officers' Certificate stating that the property to be released has been subject to a specified Prior Lien or Prior Liens existing thereon immediately prior to such release, briefly describing or otherwise identifying such Prior Lien or Prior Liens, stating the principal amount of the outstanding Prior Lien Obligations secured thereby and stating that such property constitutes all the property which, immediately prior to such release was subject to such Prior Lien or Prior Liens, said Certificate to be received by the Trustee in lieu of cash in an amount equal to the principal amount of outstanding Prior Lien Obligations so stated to be secured by such Prior Lien or Prior Liens; or

E. An Opinion of Counsel (which shall be outside counsel in the case of the opinion set forth in paragraph (2), if applicable).

(1) stating that the certificates, opinions and other instruments and/or cash and/or obligations which have been or are therewith delivered to or deposited and pledged with the Trustee conform to the requirements of this Indenture, and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the release from the lien of this Indenture of the property to be released have been complied with in all material respects;

(2) stating that the purchase money obligations, if any, being delivered to the Trustee or to the trustee, mortgagee or other holder of a Prior Lien are legal and binding obligations and are duly secured by a valid purchase money mortgage constituting a lien upon all the property to be released, or upon the portion thereof separately described pursuant to paragraph B(7) above, free of any Prior Liens other than any existing on the property to be released immediately prior to such release, and that the assignment to the Trustee of such purchase money obligations and the mortgage securing the same is valid and in recordable form;

(3) in case any cash or purchase money obligation shall be certified to have been deposited with the trustee, mortgagee or other holder of a Prior Lien, stating that the property to be released, or a specified portion thereof; is or immediately prior to such release was subject to such Prior Lien and that such deposit is required by such Prior Lien;

(4) in case the sale, exchange or other disposition of the property to be released shall have been certified, pursuant to paragraph B(2)(b) above, to be in lieu and reasonable anticipation of the taking of such property by eminent domain, stating that such property could lawfully have been taken by the grantee by eminent domain;

(5) in case the sale, exchange or other disposition of the property to be released shall have been certified, pursuant to paragraph B(2)(c) above, to be in lieu of reasonable anticipation of the exercise of a right to purchase, or to designate a purchaser or order the sale of, such property, stating that the designated governmental authority had, at the time of such sale or disposition, a right to purchase or designate a purchaser of such property or to order its sale; and

(6) in case an Officers' Certificate shall have been delivered to the Trustee in lieu of cash pursuant to paragraph D(4) above, stating that the property to be released, or a

specified portion thereof, is or immediately prior to such release was subject to the Prior Lien or Prior Liens described or otherwise identified in said Certificate.

If any property released from the lien of this Indenture as provided in this Section shall continue to be owned by the Company after such release, this Indenture shall not become or be, or be required to become or be, a lien on such property or any improvement, extension or addition to such property or renewals, replacements or substitutions of or for any part or parts of such property unless the Company shall execute and deliver to the Trustee a Supplemental Indenture, in recordable form, containing a grant, conveyance, transfer or mortgage thereof to the Trustee all in accordance with Section 13.5.

With respect to any property released from the lien of the Indenture as provided in this Section, the Trustee, upon Company Request, shall execute and deliver a release or other document to be recorded, registered or filed evidencing that such property is not subject to the lien of the Indenture.

Section 5.3 Eminent Domain.

If any or all of the Trust Estate shall be taken by eminent domain or purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale, the Trustee may release the property so taken and shall be fully protected in so doing upon being furnished with:

A. An Officers' Certificate requesting such release, describing the property to be released and stating that such property has been taken by eminent domain or purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale and that the conditions precedent provided for in this Indenture relating to such release have been complied with.

B. An Opinion of Counsel stating that an order of a court of competent jurisdiction has been issued providing for the taking of such property by the exercise of the power of eminent domain or that such property has been purchased pursuant to the right of a governmental authority to purchase or designate a purchaser for such property or to order its sale, that such order or such purchase of such property has become final or an appeal therefrom is not being pursued by the Company and that the conditions precedent provided for in this Indenture relating to such release have been complied with.

C. Subject to the requirements of any Prior Lien on the property so taken, cash equal to such award or sale price.

Section 5.4 Written Disclaimer of Trustee.

In case the Company proposes to sell, exchange or otherwise dispose of or has sold, exchanged or otherwise disposed of any property not subject to the lien hereof and the transferee thereof requests a written disclaimer or quitclaim by the Trustee of any interest in such property under this Indenture, the Trustee shall execute such an instrument without substitution of other property or cash upon receipt by the Trustee of the following:

A. A Company Request for the execution of such disclaimer or quitclaim.

B. An Officers' Certificate which shall identify the sale, exchange or other disposition or proposed sale, exchange or other disposition, describe the property, state that such property is not subject to the lien of this Indenture, and state that the transferee of such property has requested a written disclaimer or quitclaim by the Trustee.

C. An Opinion of Counsel which shall state that such property is not subject to the lien of this Indenture and not then required to be subjected thereto by any provision hereof.

Section 5.5 Powers Exercisable Notwithstanding Event of Default.

While in possession of all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee), the Company may exercise the powers conferred upon it in this Article even though it would otherwise be prohibited from doing so while an Event of Default exists as provided herein, if the Trustee, in its discretion (based upon such opinions and certifications as the Trustee deems necessary), or the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, by Act of such Holders, shall consent to such action (such consent may be on a retroactive basis), in which event none of the instruments required to be furnished to the Trustee under this Article as a condition to the exercise of such powers need state that no Event of Default exists as provided therein.

Section 5.6 Powers Exercisable by Trustee or Receiver.

In case all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee) shall be in the possession of a trustee or receiver lawfully appointed, the powers hereinbefore in this Article conferred upon the Company with respect to the sale, exchange or other disposition and release of the Trust Estate may be exercised by such trustee or receiver (with the consent of the Trustee or Holders as specified in Section 5.5), in which case a written request signed by such receiver or trustee shall be deemed the equivalent of any Board Resolution or Company Request required by this Article and a certificate signed by such trustee or receiver shall be deemed the equivalent of any Officers' Certificate required by this Article and such certificate need not state that no Event of Default exists. If the Trustee shall be in possession of the Trust Estate under Section 8.3, such powers may be exercised by the Trustee in its discretion.

Section 5.7 Purchaser Protected.

No purchaser or other transferee in good faith of property purporting to be released herefrom shall be bound to ascertain the authority of the Trustee to execute the release or to inquire as to the satisfaction of any conditions herein prescribed for the exercise of such authority; nor shall any purchaser or other transferee of any property or rights permitted by this Article to be sold, exchanged or otherwise disposed of by the Company be under any obligation to ascertain or inquire into the authority of the Company to make any such sale, exchange or other disposition. Any release executed by the Trustee shall be sufficient for the purpose of this Indenture and shall constitute a good and valid release of the property therein described from the lien hereof.

Section 5.8 Disposition of Collateral on Discharge of Prior Liens.

Upon the cancellation and discharge of any Prior Lien, the Company will cause all cash and purchase money obligations then held by the trustee, mortgagee or other holder of such Prior Lien, which were received by such trustee, mortgagee or other holder in accordance with the provisions of this Article (including all proceeds of or substitutions for any thereof), to be paid to or deposited and pledged with the Trustee, such cash to be held and paid over or applied by the Trustee as provided in Article ~~V~~IV.

Section 5.9 Disposition of Obligations Received.

All purchase money obligations received by the Trustee under this Article shall be held by the Trustee as a part of the Trust Estate. Upon payment to the Trustee of the entire unpaid principal amount of any such obligation, the Trustee shall release and transfer such obligation and any mortgage securing the same upon Company Request. Any cash received by the Trustee in respect of the principal of any such obligation shall be held by the Trustee as Trust Moneys under Article ~~V~~IV subject to application as therein provided. The Trustee shall not be responsible for the collection of the principal of or interest on any such obligation. All interest and other income on any such obligation, when received by the Trustee, shall, except to any extent otherwise provided in Section 15.4, be paid from time to time to the Company upon Company Request, unless an Event of Default shall exist. If an Event of Default shall exist, any interest and other income on any such obligation not theretofore paid upon Company Request, when collected by the Trustee, shall be applied by the Trustee in accordance with Section 8.7.

ARTICLE VI

APPLICATION OF TRUST MONEYS

Section 6.1 “Trust Moneys” Defined.

All moneys received by the Trustee

A. upon the release of any part of the Trust Estate from the lien of this Indenture, including all moneys received in respect of the principal of all purchase money obligations, or

B. as compensation for, or proceeds of the sale of, any part of the Trust Estate taken by eminent domain or purchased by, or sold pursuant to an order of, a governmental authority or otherwise disposed of, or

C. as proceeds of insurance upon any part of the Trust Estate required to be paid to the Trustee under Section 13.8, or

D. for application under this Article as elsewhere herein provided, or whose disposition is not elsewhere herein otherwise specifically provided for,

(all such moneys being herein sometimes called “Trust Moneys”) shall be held by the Trustee, except as otherwise provided in this Article, as a part of the Trust Estate and, upon any entry upon or sale of the Trust Estate or any part thereof under Article ~~IX~~VII, Trust Moneys shall be applied in

accordance with Section 8.7; but, prior to any such entry or sale, all or any part of the Trust Moneys may be withdrawn, and shall be paid, released or applied by the Trustee, from time to time as provided in Sections 6.2 to 6.9, inclusive, and may be applied by the Trustee as provided in Sections 9.7, 13.11 and Section 15.14.

Section 6.2 Withdrawal on Basis of Bondable Additions.

Trust Moneys may be withdrawn by the Company and shall be paid by the Trustee under this Section to the Company or as otherwise specified in a Company Request, from time to time, equal to the principal amount of Bondable Additions made the basis for such withdrawal pursuant to paragraph C below, upon receipt by the Trustee of the following:

- A. A Board Resolution requesting the withdrawal and payment of Trust Moneys.
- B. An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys, stating that:
 - (1) no Event of Default exists or will occur as a result of such redemption, purchase or payment; and
 - (2) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.
- C. The additional documents specified in Section 4.2 (other than an Available Margins Certificate) for delivery whenever requesting the use of Bondable Additions as a basis for the withdrawal of Trust Moneys under this Section.

Section 6.3 Withdrawal on Basis of Retirement or Defeasance of Obligations or Principal Payments on Obligations.

Trust Moneys may be withdrawn by the Company and shall be paid by the Trustee under this Section to the Company or as otherwise specified in a Company Request, from time to time, equal to the principal amount of Obligations or principal payments on Obligations made the basis for such withdrawal pursuant to paragraph C below, upon receipt by the Trustee of the following:

- A. A Board Resolution requesting the withdrawal and payment of Trust Moneys.
- B. An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys, stating that:
 - (1) no Event of Default exists; and
 - (2) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.
- C. The Obligations, if any, and documents which the Company would be required to furnish to the Trustee upon an Application for the authentication and delivery of Additional

Obligations under Section 4.3, except for the documents and opinions required by paragraphs A, E and F thereof.

D. An Opinion of Counsel stating that the Obligations, if any, and the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, and that, upon the basis of the Application, the conditions precedent provided for in this Indenture relating to the withdrawal and payment of the Trust Moneys then requested have been complied with.

Section 6.4 [Intentionally Omitted].

Section 6.5 Retirement of Obligations or Payments on Obligations.

Trust Moneys shall be applied by the Trustee from time to time to the redemption of any Outstanding Secured Obligations that may be designated by the Company, all in accordance with the provisions applicable to redemption at the option of the Company and with any premiums applicable thereto, or to the payment of the principal of any Outstanding Secured Obligations at their Stated Maturity or to the purchase thereof upon tender or in the open market or at private sale or upon any exchange or in any one or more of said ways, or to any other payment of the principal of any Outstanding Secured Obligations that may be designated by the Company, all in accordance with the rights of the Company to make such payments and with any penalties or premiums applicable thereto, as the Company shall specify in a Company Request, upon receipt by the Trustee of the following:

A. A Board Resolution directing the application pursuant to this Section of Trust Moneys and, in case any such moneys are to be applied to the redemption of Obligations, designating the Obligations to be redeemed and stating the applicable Redemption Price, if any, or authorizing such designation and statement to be made in an Officers' Certificate, and, in case such moneys are to be applied to the purchase of Obligations, prescribing the method of purchase, the price or prices to be paid and the maximum principal amount of Obligations to be purchased or authorizing the prescription of such method, price, and maximum principal amount to be made in an Officers' Certificate, and in the case such moneys are to be applied to the payment of principal on Obligations, designating the Obligations on which such payments are to be made, specifying the amount to be paid and stating the applicable penalties or premiums, if any, or authorizing such designation, specification and statement to be made in an Officers' Certificate.

B. Cash equivalent to the maximum amount of the accrued interest and the premium or penalty, if any, required to be paid in connection with any such redemption, purchase or payment, which cash shall be held by the Trustee in trust for such purpose.

C. An Officers' Certificate, dated not more than thirty (30) days prior to the date of the relevant Application, stating that:

(1) no Event of Default exists; and

(2) the conditions precedent provided for in this Indenture relating to such application of Trust Moneys have been complied with.

D. An Opinion of Counsel stating that the documents and the cash, if any, which have been or are therewith delivered to and deposited with the Trustee conform to the requirements of this Indenture, and that, upon the basis of the relevant Application, the conditions precedent provided for in this Indenture relating to the application of Trust Moneys therein applied for have been complied with.

Upon compliance with the foregoing provisions of this Section, the Trustee shall apply Trust Moneys as requested by a Company Request, in an amount up to, but not exceeding, the principal amount of the Obligations so redeemed, paid or purchased, or the principal amount of the principal payments on the Obligations so made, and shall use only the cash deposited pursuant to paragraph B above, to the extent necessary, to pay any accrued interest, penalty and premium required in connection with such redemption, purchase or payment.

A Board Resolution expressed to be irrevocable directing the application of Trust Moneys under this Section to the payment of the principal of Obligations shall, for all purposes of this Indenture, be deemed the equivalent of the deposit of money with the Trustee in trust for such purpose. Such Trust Moneys and any cash deposited with the Trustee pursuant to paragraph B above for the payment of accrued interest, penalty and premium shall not, after compliance with the foregoing provisions of this Section, be deemed to be a part of the Trust Estate or Trust Moneys.

Section 6.6 Withdrawal of Insurance Proceeds.

A. To the extent that any Trust Moneys consist of proceeds of insurance upon any part of the Trust Estate, they may be withdrawn by the Company and shall be paid by the Trustee to the Company or as otherwise specified in a Company Request to reimburse the Company for the Cost to the Company to repair, rebuild or replace the property destroyed or damaged, upon receipt by the Trustee of the following:

(1) An Officers' Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys and signed with respect to clauses (a) and (c) below, by a Person who is an Accountant (who may be one of the two signing Officers), stating that:

(a) expenditures have been made, or costs incurred, by the Company in a specified amount for the purpose of making certain repairs, rebuildings and replacements, which shall be briefly described, and stating the amount of any such expenditures or costs for the acquisition of a major item of property, which shall be separately specified, in replacement of any destroyed or damaged property;

(b) no part of such expenditures or costs has been or is being made the basis for the authentication and delivery of Obligations or the withdrawal of any Trust Moneys or Deposited Cash or the release of any part of the Trust Estate from the lien of this Indenture or has been paid out of the proceeds of insurance upon any part of the Trust Estate not required to be paid to the Trustee under Section 13.8;

(c) there is no outstanding indebtedness, other than costs for which payment is being requested, known to the Company, after due inquiry, for the

purchase price or construction of the repairs, rebuildings or replacements specified pursuant to clause (a) above, or for labor, wages, materials or supplies in connection with the making thereof, which, if unpaid, might become the basis of a vendor's, mechanics', laborers', materialmen's, statutory or other similar lien upon any of such repairs, rebuildings or replacements, which lien might, in the opinion of the signers of such Certificate, materially impair the security afforded by such repairs, rebuildings or replacements;

(d) no Event of Default exists; and

(e) the conditions precedent provided for in this Indenture relating to such withdrawal and payment have been complied with.

(2) An Engineer's or Appraiser's Certificate, dated not more than thirty (30) days prior to the date of the related Application, stating, in the opinion of the signer, the fair value to the Company of any major item of property specified in paragraph A(l) above; **PROVIDED** that if such property constitutes an Acquired Facility and if the fair value to the Company of such Acquired Facility is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal amount of all Obligations at the time Outstanding, the Engineer or Appraiser shall be an Independent Engineer or Independent Appraiser.

(3) An Opinion of Counsel stating that:

(a) the documents which have been or are therewith delivered to the Trustee conform to the requirements of this Indenture, that, upon the basis of the related Application, the conditions precedent provided for in this Indenture relating to the withdrawal and payment of Trust Moneys then requested have been complied with; and

(b) the Company's right, title and interest in and to the repairs, rebuildings and replacements described in the Officers' Certificate delivered pursuant to paragraph A above are subject to the lien of this Indenture.

(4) Title Evidence indicating that the Company has acquired, or upon payment of the costs to be paid as requested will acquire, title to the repairs, rebuildings or replacements described in the Officers' Certificate delivered pursuant to paragraph A above at least equivalent to its title to the property destroyed or damaged.

Upon compliance with the foregoing provisions of this Section, the Trustee shall pay to the Company or as otherwise specified in a Company Request an amount of Trust Moneys of the character aforesaid equal to the amount of the expenditures or costs stated in such Officers' Certificate; **PROVIDED, HOWEVER**, that, in the case of expenditures or costs for the acquisition of a major item of property in replacement of any destroyed or damaged property, such expenditures or costs shall not exceed the fair value to the Company of such replacement as certified pursuant to the paragraph (2) above.

B. To the extent that any Trust Moneys consist of proceeds of insurance upon, or payable in consequence of destruction of or damage to, that portion of the Trust Estate consisting of the property (“Leased Assets”) subject to a lease (a “Capital Asset Lease”) described in paragraph C of the definition of “Property Additions” or paragraph H of Section 5.1, they shall be paid by the Trustee as specified in a Company Request to the lessor under a Capital Assets Lease or its designee, upon receipt by the Trustee of the following:

(1) An Officers’ Certificate, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of such Trust Moneys and signed in the case of the following clauses (b), (c) and (d) by an Engineer or Appraiser, setting forth in substance as follows:

(a) an amount is, or with an election which shall be made by the Company, will be, due and payable to the lessor under the Capital Assets Lease in respect of such destruction of, or damage to, the Leased Assets and the amount of the request for withdrawal of Trust Moneys to which such Officers’ Certificate relates does not exceed such amount;

(b) the amount of Trust Moneys to be withdrawn pursuant to such Company Request is not more than the difference between (i) the amount of proceeds of insurance received in consequence of such destruction of or damage to the Leased Assets which has theretofore been deposited with the Trustee, minus either (ii) if the Leased Assets are not to be repaired or replaced, the difference between (A) the fair value in the opinion of said Engineer or Appraiser of the Leased Assets immediately prior to the destruction or damage giving rise to the receipt of the proceeds of insurance, minus (B) the fair value in the opinion of said Engineer or Appraiser of the Leased Assets at the date of such Officers’ Certificate or (iii) if the Leased Assets are to be repaired or replaced, the cost of repair or replacement as estimated by such Engineer or Appraiser;

(c) whether

(i) the aggregate of the amount of Trust Moneys to be withdrawn in accordance with such Application and the fair value of all Trust Moneys, withdrawn pursuant to this paragraph B of this Section 6.6 or securities or other property released pursuant to Section 5.2 since the commencement of the then current calendar year (as previously certified to the Trustee in connection with withdrawals or releases) is 10% or more of the aggregate principal amount of all Obligations at the time Outstanding, and whether such amount of Trust Moneys to be withdrawn is at least \$1,000,000 (or, if this Indenture is qualified under the TIA, \$25,000) and at least 1% of the aggregate principal amount of all Obligations at the time Outstanding, or

(ii) the amount of the Trust Moneys to be withdrawn in accordance with such Application is more than \$1,000,000;

(d) that, in the opinion of the signers, the proposed withdrawal will not impair the security under this Indenture in contravention of the provisions hereof; and

(e) that no Event of Default exists.

If the facts specified in either Subclause (i) or (ii) of clause (c) above are present, such Officers' Certificate shall be accompanied by a certificate of an Independent Engineer or Independent Appraiser, dated not more than thirty (30) days prior to the date of the Application for the withdrawal and payment of Trust Moneys, to the effect set forth in clauses (b) and (d) above. Upon compliance with the foregoing provisions of this Section, the Trustee shall pay to the Person specified in a Company Request an amount of Trust Moneys of the character aforesaid equal in the amount stated in such Officers' Certificate.

Section 6.7 Amounts under \$25,000.

In case the amount of Trust Moneys at any one time received by the Trustee shall not exceed \$25,000, the same shall (unless an Event of Default exists) be paid to the Company upon Company Request; and the Company covenants and agrees that it will, within the 12 months after such Trust Moneys have been so paid to the Company, deposit and file with the Trustee the documents and Obligations, if any, which by the provisions of Sections 6.2, 6.3, 6.4, 6.6 or 6.8 would have been delivered to the Trustee to entitle the Company to have the Trust Moneys paid to it as provided in such Section, with such omissions and variations as are appropriate by reason of the fact that such Trust Moneys have theretofore been paid to the Company by the Trustee without prior compliance with such Sections. In the event that the Company shall have failed to comply with the foregoing covenant, no further payment may be made under this Section until the Company shall have deposited and filed with the Trustee the required documents and Obligations, if any.

Section 6.8 Powers Exercisable Notwithstanding Default.

While in possession of all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee), the Company may do any of the things enumerated in Sections 6.2 to 6.7, inclusive, which it is prohibited from doing while an Event of Default exists as provided therein, if the Trustee in its discretion (based upon such opinions and certifications as the Trustee deems necessary), or the Holders of not less than a majority in aggregate principal amount of the Obligations then Outstanding, by an Act of such Holders, shall specifically consent to such action, in which event any Officers' Certificate delivered to the Trustee under any of such Sections shall omit any statement to the effect that no Event of Default exists as provided thereunder.

Section 6.9 Powers Exercisable by Trustee or Receiver.

In case all or substantially all of the Trust Estate (other than any cash and securities constituting part of the Trust Estate and deposited with the Trustee) shall be in the possession of a receiver or trustee lawfully appointed, the powers hereinbefore in this Article conferred upon the Company with respect to the withdrawal or application of Trust Moneys may be exercised by such receiver or trustee (with the consent of the Trustee or Holders specified in Section 6.8), in which

case a written request signed by such receiver or trustees shall be deemed the equivalent of any Board Resolution or Company Request required by this Article and a certificate signed by such receiver or trustee shall be deemed the equivalent of any Officers' Certificate required by this Article and such certification need not state that no Event of Default exists. If the Trustee shall be in possession of the Trust Estate under Section 8.3, such powers may be exercised by the Trustee in its discretion.

Section 6.10 Disposition of Obligations Retired.

All Obligations received by the Trustee and on the basis of which Trust Moneys are paid or for whose payment, redemption or purchase Trust Moneys are applied under this Article, if not previously canceled, shall be promptly canceled by the Trustee and thereafter the Trustee may retain or destroy such Obligations and deliver a certificate of destruction to the Company.

ARTICLE VII

DEFEASANCE

Section 7.1 Termination of Company's Obligations.

A. The Company may terminate its obligations under the Obligations and this Indenture if all Obligations previously authenticated and delivered (other than destroyed, lost or stolen Obligations which have been replaced or paid or Obligations for whose payment money or securities has theretofore been held in trust and thereafter repaid to the Company, as provided in Section 7.3) have been delivered to the Trustee for cancellation and the Company has paid all sums payable by it hereunder; or

B. Except as otherwise provided in this Section, the Company may terminate its obligations under any Obligations and all of its obligations under this Indenture to or for the benefit of the Holders of such Obligations, if:

(1) the Company has (i) in case any of such Obligations are to be redeemed on any date prior to their Stated Maturity, given to the Trustee irrevocable instructions to give as provided in Article XIV notice of redemption of such Obligations (other than Obligations which have been purchased by the Trustee at the direction of the Company as hereinafter provided prior to the giving of such notice of redemption), and (ii) irrevocably deposited or caused to be deposited with the Trustee or Paying Agent (if other than the Company), under the terms of an irrevocable trust agreement in form and substance satisfactory to the Trustee and any such Paying Agent, as trust funds in trust for the benefit of the Holders of such Obligations for that purpose, money or Defeasance Securities maturing as to principal and interest in such amounts and at such times as are sufficient (in the opinion of a nationally recognized firm of Independent public accountants expressed in a certificate signed by such firm and delivered to the Trustee), without consideration of any reinvestment of such interest, to pay principal or Redemption Price (if applicable) of-, and interest due or to become due on such Obligations (other than destroyed, lost or stolen Obligations which have been replaced or paid or Obligations for whose payment money or securities has theretofore been held in trust and thereafter repaid to the Company as

provided in the second sentence of Section 7.3) on or prior to the Redemption Date or Stated Maturity thereof, as the case may be, in accordance with the terms of this Indenture and such Obligations; **PROVIDED** that the Trustee or Paying Agent shall have been irrevocably instructed to apply such money or the proceeds of such Defeasance Securities to the payment of said principal, Redemption Price and interest with respect to such Obligations;

(2) no Event of Default shall exist on the date of such deposit or shall occur as a result of such deposit;

(3) the Company has paid or caused to be paid all sums then due from the Company hereunder and under such Obligations; ~~and~~

(4) the Company has delivered to the Trustee and any Paying Agent an Officers' Certificate, each stating that the conditions set forth in clauses (1) through (3) above have been complied with; and

(5) the Holders have perfected security interests in the moneys and Defeasance Securities deposited.

After any such irrevocable deposit, the Trustee upon Company Request shall acknowledge in writing the discharge of the Company's obligations under such Obligations and of the Company's obligations to or for the benefit of the Holders of such Obligations or under this Indenture, except for those surviving obligations specified below.

C. Notwithstanding the satisfaction of the conditions set forth in paragraph B with respect to any Obligations, the Company's obligations to or for the Holders of such Obligations or to the Trustee under Sections 3.6, 3.7, 7.2, 7.3, 7.4, 9.7, 9.10, 10.2, 13.2, 13.3 and 15.14 shall survive until such Obligations are no longer Outstanding. Thereafter, only the Company's obligations under Sections 7.3, 7.4, 9.7 and 15.14 shall survive with respect to such Holders or the Trustee.

D. The Trustee shall, if so directed by the Company (i) prior to the Stated Maturity of Obligations in respect of which a deposit has been made under paragraph B(1) above which are not to be redeemed prior to their Stated Maturity or (ii) prior to the giving of the notice of redemption referred to in paragraph B(1) above with respect to any Obligations in respect of which a deposit has been made under paragraph B(1) which are to be redeemed on a date prior to their Stated Maturity, apply moneys deposited with the Trustee in respect of such Obligations and redeem or sell Defeasance Securities so deposited with the Trustee and apply the proceeds thereof to the purchase of such Obligations and the Trustee shall immediately thereafter cancel all such Obligations so purchased; **PROVIDED, HOWEVER**, that the moneys and Defeasance Securities remaining on deposit with the Trustee after the purchase and cancellation of such Obligations shall be sufficient to pay when due the principal or Redemption Price (if applicable) of, and interest due or to become due on, all Obligations in respect of which such moneys and Defeasance Securities are being held by the Trustee on or prior to the Redemption Date or Stated Maturity thereof, as the case may be. In the event that on any date as a result of any purchases and cancellations of Obligations as provided in this paragraph the total amount of moneys and Defeasance Securities

remaining on deposit with the Trustee under this Section is in excess of the total amount that would have been required to be deposited with the Trustee on such date under paragraph B(1) in respect of the remaining Obligations for which such moneys and Defeasance Securities are being held, the Trustee shall, if requested by the Company and upon receipt by the Trustee of a certificate of an Independent Accountant setting forth the calculation of such excess, pay the amount of such excess to the Company free and clear of any trust, lien, security interest, pledge or assignment securing such Obligations or otherwise existing under this Indenture.

E. If the requirements of this Section have been satisfied with respect to all Obligations theretofore Outstanding, then, upon Company Request, the lien, rights and interest created hereby shall be canceled and surrendered (except as otherwise provided below) and the Trustee and each co-trustee and separate trustee, if any, then acting as such hereunder shall, at the expense of the Company, execute and deliver a termination statement and such instruments of satisfaction and discharge as may be necessary and pay, sign, transfer and deliver to the Company or upon Company Order all cash, securities and other personal property then held by it hereunder as part of the Trust Estate.

Section 7.2 Application of Deposited Money and Money From Defeasance Securities.

Money or Defeasance Securities deposited with the Trustee or the Paying Agent pursuant to Section 7.1 shall not be part of the Trust Estate and shall not be deemed to be Trust Moneys but shall constitute a separate trust fund for the benefit of persons entitled thereto. Subject to the provisions of Section 13.3, the Trustee or Paying Agent shall hold in trust money or Defeasance Securities deposited with it pursuant to Section 7.1, and shall apply the deposited money and the money from Defeasance Securities to the payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are deposited. If money deposited with the Trustee under this Article VII, or money received from principal or interest payments on Defeasance Securities deposited with the Trustee under this Article VII, will be required at a later date for payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are deposited, such money shall, at the written investment direction of the Company, to the extent practicable, be reinvested in Defeasance Securities maturing at times and in amounts that, together with other moneys so deposited or to be generated by other Defeasance Securities, will be sufficient to pay when due the principal or Redemption Price (if applicable) of, and interest to become due on, such Obligations, and the interest earned from such reinvestments shall be paid over to the Company, as received by the Trustee, free and clear of any trust, lien, security interest, pledge or assignment securing said Obligations or otherwise existing under this Indenture.

Section 7.3 Repayment to Company.

Subject to Section 7.1, to the extent any Defeasance Securities deposited with the Trustee under this Article, or cash received from principal or interest payments on such Defeasance Securities, will not be required in the opinion of a nationally recognized firm of Independent Accountants expressed in a certificate signed by such firm and delivered to the Trustees and the Paying Agent ~~or~~ for the payment of the principal or Redemption Price (if applicable) of, and interest on, the Obligations in respect of which such money and Defeasance Securities are

deposited, the Trustee and the Paying Agent shall promptly pay and deliver to the Company upon Company Request any such Defeasance Securities and cash, and thereupon the Trustee shall be relieved from any liability with respect thereto. Without limiting the foregoing, subject to the unclaimed property laws of the Commonwealth of Kentucky, the Trustee and the Paying Agent shall pay to the Company upon Company Request any money held by them for the payment of principal, Redemption Price or interest that remains unclaimed for two years after the date such payment was due; **PROVIDED** that the Trustee or such Paying Agent before being required to make any payment may at the expense of the Company cause to be mailed by first-class mail, postage prepaid to each Holder entitled to such money, notice that such money remains unclaimed and that after a date specified therein (which shall be at least thirty (30) days from the date of publication or mailing) any unclaimed balance of such money then remaining will be repaid to the Company. After payment to the Company, Holders entitled to such money must look to the Company for payment as general creditors unless an applicable law designates another person, and all liability of the Trustee and such Paying Agent with respect to such money shall cease.

Section 7.4 Reinstatement.

If the Trustee or Paying Agent is unable to apply any money or Defeasance Securities in accordance with Section 7.1 and the second sentence of Section 7.2 by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, (i) the Company's obligations under this Indenture to or for the benefit of the Holders of Obligations for whose benefit such money or Defeasance Securities were deposited (other than obligations arising under any provisions creating the lien hereof) and under such Obligations shall be revived and reinstated as though no deposit had occurred pursuant to Section 7.1 until such time as the Trustee or Paying Agent is permitted to apply all such money and Defeasance Securities in accordance with Section 7.1, and (ii) the lien of this Indenture shall be reinstated for the benefit of such Holders (and, if the lien of this Indenture shall previously have been fully released, then to the extent possible, the Company shall take all actions required to subject assets of the Company to a lien substantially similar, in amount and otherwise, to the Trust Estate subject to the lien of this Indenture as in effect on the date of the termination of the Company's obligations hereunder pursuant to Section 7.1, which lien shall be effective until such time as the Trustee or Paying Agent is permitted to apply all such money and Defeasance Securities in accordance with Section 7.1); **PROVIDED, HOWEVER**, that if the Company has made any payment of interest on or principal of any Obligations because of the reinstatement of its obligations, the Company shall be subrogated to the rights of the Holders of such Obligations to receive such payment from the money or Defeasance Securities held therefor by the Trustee or Paying Agent.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1 Events of Default.

"Event of Default" means, wherever used herein, any one of the following events (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected

by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

A. default in the payment of any interest upon any Obligation when such interest becomes due and payable, and continuance of such default for five (5) days or such other period as may be provided for in such Obligation or in the Supplemental Indenture under which such Obligation is issued **PROVIDED**, however, that no payment by RUS pursuant to any RUS insuring of, or by any other insurer of, any Obligation shall be considered a payment of interest under this paragraph for purposes of determining the existence of such a failure to pay; or

B. default in the payment of the principal of (premium, if any, on) any Obligation at its Maturity and, if there is a grace period provided for in such Obligation or the Supplemental Indenture under which such Obligation is issued, the continuance of such default for any grace period so provided, **PROVIDED**, however, that no payment by RUS pursuant to any guarantee by RUS insuring of, or by any other guarantor or insurer of, any Obligation shall be considered a payment of principal (or premium) under this paragraph for purposes of determining the existence of such a failure to pay; or

C. default in the performance, or breach, of any covenant or warranty of the Company in this Indenture (other than a covenant or warranty a default in the performance or breach of which is described in paragraph A or B of this Section), and continuance of such default or breach for a period of thirty (30) days after there has been given, by registered or certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of not less than ~~10~~²⁵% in principal amount of the Obligations Outstanding, a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder, unless such default cannot be reasonably cured within such thirty (30) day period then, so long as a cure is being diligently pursued, the Company shall have a reasonable period of time beyond such thirty (30) day period to complete such cure; or

D. a failure to pay any portion of the principal when due and payable (other than amounts due and payable as a consequence of a declaration of acceleration) under any bond, debenture, note or other evidence of indebtedness for money borrowed by the Company, other than any indebtedness evidenced or secured by an Obligation, whether such indebtedness now exists or shall hereafter be created, if, but only if, such failure shall have resulted in such indebtedness becoming or being declared due and payable prior to the date on which it otherwise would have been due and payable in an aggregate principal amount exceeding \$10,000,000, without such indebtedness having been discharged or such declaration of acceleration having been rescinded or annulled within a period of ten (10) days after such acceleration; or

E. the rendering against the Company of a judgment for the payment of money in an amount exceeding \$10,000,000 and the continuance of such judgment unsatisfied or without stay of execution thereon for a period of forty-five (45) days after the entry of such judgment, or the continuance of such judgment unsatisfied for a period of forty-five (45) days after the termination of any stay of execution thereon entered within such first mentioned forty-five (45) day period; if, but only if, in either case, such judgment shall have continued unstayed or unsatisfied for a period of ten (10) days after there has been given a written notice specifying such situation and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder; by registered or

certified mail, to the Company by the Trustee, or to the Company and the Trustee by the Holders of not less than ~~10~~25% in principal amount of the Obligations Outstanding; or

F. the entry by a court having jurisdiction of (i) a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or (ii) a decree or order adjudging the Company a bankrupt or insolvent, or approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Company under any applicable federal or state law, or appointing a custodian, receiver, liquidator, assignee, trustee, sequestrator or other similar official of the Company or of any substantial part of its property, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order for relief of any such other decree or order unstayed and in effect for a period of sixty (60) consecutive days; or

G. the commencement by the Company of a voluntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, or the consent by it to the entry of a decree or order for relief in respect of the Company in an involuntary case or proceeding under any applicable federal or state bankruptcy, insolvency, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against it, or the filing by it of a petition or answer or consent seeking reorganization or relief under any applicable federal or state law, or the consent by it to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee, sequestrator or similar official of the Company or of any substantial part of its property, or the making by it of an assignment for the benefit of creditors, or the admission by it in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company in furtherance of any such action.

Section 8.2 Acceleration of Maturity; Rescission and Annulment.

If an Event of Default exists, then and in every such case the Trustee or the Holders of not less than ~~10~~25% in principal amount of the Obligations Outstanding may declare the principal (or, in the case of Obligations of any series constituting are Original Issue Discount Obligations, such portion of the principal amount of such Original Issue Discount Obligations as may be specified in the terms of such series) of all the Obligations to be due and payable immediately, by a notice in writing to the Company (and to the Trustee, if given by Holders), and upon any such declaration such principal shall become immediately due and payable.

At any time after such a declaration of acceleration has been made, but before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due on any Obligations has been obtained by the Trustee as hereinafter in this Article provided, the Holders of a majority in principal amount of the Obligations Outstanding (unless such declaration has been made under Section 8.23 only with respect to a particular series of Outstanding Obligations, in which event only a majority in principal amount of the Obligations of such series) may, by written notice to the Company and the Trustee, rescind and annul such declaration and its consequences if

- A. the Company has paid or deposited with the Trustee a sum sufficient to pay
- (1) all overdue installments of interest on all Obligations,
 - (2) the principal of (and premium, if any, on) any Obligations which have become due otherwise than by such declaration of acceleration and interest thereon at the rate or rates prescribed therefor in such Obligations,
 - (3) to the extent that payment of such interest is lawful, interest upon overdue installments of interest at the rate or rates prescribed therefor in such Obligations, and
 - (4) all sums paid or advanced by the Trustee hereunder and the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel; and

B. all Events of Default, other than the non-payment of the principal of Obligations which have become due solely by such declaration of acceleration, have been cured or have been waived as provided in Section 8.17.

No such rescission and annulment shall affect any subsequent default or impair any right consequent thereon.

Section 8.3 Entry.

The Company agrees that upon the occurrence of an Event of Default the Company, upon demand of the Trustee during the continuance thereof, shall forthwith surrender to the Trustee the actual possession of, and it shall be lawful for the Trustee by such officers or agents as it may appoint to enter and take possession of, the Trust Estate (and the books, papers and accounts of the Company), and to hold, operate, manage and control the Trust Estate (including the making of all needful repairs, and such alterations, additions and improvements which the Trustee shall determine in its discretion to make) and to receive the rents, issues, tolls, profits, revenues and other income thereof, and, after deducting the costs and expenses of entering, taking possession, holding, operating and managing the Trust Estate, as well as payments for taxes, insurance and other proper charges upon the Trust Estate and reasonable compensation to itself, its agents and counsel, to apply the same as provided in Section 8.7. Whenever all that is then due upon the Obligations and under any of the terms of this Indenture shall have been paid and all defaults hereunder shall have been made good, the Trustee shall surrender possession of such property to the Company.

Section 8.4 Power of Sale; Suits for Enforcement.

In case an Event of Default shall exist, the Trustee, with or without entry, in its discretion may, subject to the provisions of Section 8.16:

- A. sell, subject to any mandatory requirements of applicable law, the Trust Estate as an entirety, or in such parcels as the Holders of a majority in principal amount of the Obligations then Outstanding shall in writing request, or in the absence of such request, as the Trustee may

determine, to the highest bidder at public auction or private sale and upon such terms as the Trustee may (subject to applicable law) fix; or

B. proceed to protect and enforce its rights and the rights of the Holders under this Indenture by sale pursuant to judicial proceedings or by a suit, action or proceeding in equity or at law or otherwise, whether for the specific performance of any covenant or agreement contained in this Indenture or in aid of the execution of any power granted in this Indenture or for the foreclosure of this Indenture or for the enforcement of any other legal, equitable or other remedy, as the Trustee, being advised by counsel, shall deem most effectual to protect and enforce any of the rights of the Trustee or the Holders.

Section 8.5 Incidents of Sale.

Upon any sale of any of the Trust Estate, whether made under the power of sale hereby given or pursuant to judicial proceedings, to the extent permitted by law:

A. the principal of and accrued interest on all Outstanding Secured Obligations, if not previously due, shall at once become and be immediately due and payable;

B. any Holder or Holders or the Trustee may bid for and purchase the property offered for sale, and upon compliance with the terms of sale may hold, retain and possess and dispose of such property, without further accountability, and may, in paying the purchase price therefor, deliver any Outstanding Secured Obligations or claims for interest thereon in lieu of cash in the amount which shall, upon distribution of the net proceeds of such sale, be payable thereon, and (unless such sale is effected under power of sale) such Obligations, in case the amounts so payable thereon shall be less than the amount due thereon, shall be returned to the Holders thereof after being appropriately stamped to show partial payment;

C. the Trustee may make and deliver to the purchaser or purchasers a good and sufficient deed, bill of sale and instrument of assignment and transfer of the property sold;

D. the Trustee is hereby irrevocably appointed the true and lawful attorney of the Company, in its name and stead, to make all necessary deeds, bills of sale and instruments of assignment and transfer of the property thus sold; and for that purpose it may execute all necessary deeds, bills of sale and instruments of assignment and transfer, and may substitute one or more persons, firms or corporations with like power, the Company hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof; but if so requested by the Trustee or by any purchaser, the Company shall ratify and confirm any such sale or transfer by executing and delivering to the Trustee or to such purchaser or purchasers all proper deeds, bills of sale, instruments of assignment and transfer and releases as may be designated in any such request;

E. all right, title, interest, claim and demand whatsoever, either at law or in equity or otherwise, of the Company of, in and to the property so sold shall be divested and such sale shall be a perpetual bar both at law and in equity against the Company, its successors and assigns, and against any and all persons claiming or who may claim the property sold or any part thereof from, through or under the Company, its successors and assigns; and

F. the receipt of the Trustee or of the officer making such sale shall be a sufficient discharge to the purchaser or purchasers at such sale for his or their purchase money and such purchaser or purchasers and his or their assigns or personal representatives shall not, after paying such purchase money and receiving such receipt, be obliged to see to the application of such purchase money, or be in anywise answerable for any loss, misapplication or non-application thereof.

Upon a sale of substantially all the Trust Estate, whether made under the power of sale hereby given or pursuant to judicial proceedings, the Company will permit, to the extent permitted by law, the purchaser thereof and its successors and its and their assigns to take and use the name of the Company and to carry on business under such name or any variant or variants thereof and to use and employ any and all other trade names, brands and trade marks of the Company; and in such event, upon written request of such purchaser or its successors, or its or their assigns, the Company will, at the expense of the purchaser, change its name in such manner as to eliminate any similarity.

Section 8.6 Covenant to Pay Trustee Amounts Due on Obligations and Right of Trustee to Judgment.

The Company covenants that, if

A. default is made in the payment of any interest on any Obligation when such interest becomes due and payable, and such default continues for the period prescribed in paragraph A of Section 8.1, or

B. default is made in the payment of the principal of (or premium, if any, on) any Obligation at its Maturity, and, if applicable, such default continues for the period prescribed in paragraph of Section 8.1,

then upon demand of the Trustee, the Company will pay to the Trustee, for the benefit of the Holders of such Obligations, the whole amount then due and payable on such Obligations for principal (and premium, if any) and interest, with interest at the respective rate or rates prescribed therefor in the Obligations on overdue principal (and premium, if any) and, to the extent that payment of such interest is legally enforceable, on overdue installments of interest; and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel. If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, shall be entitled to sue for and recover judgment against the Company and any other obligor on the Obligations for the whole amount so due and unpaid.

The Trustee shall be entitled to sue and recover judgment as aforesaid ~~and~~ either before, after or during the pendency of any proceedings for the enforcement of the lien of this Indenture, and in case of a sale of the Trust Estate and the application of the proceeds of sale as aforesaid, the Trustee, in its own name and as trustee of an express trust, shall be entitled to enforce payment of, and to receive, all amounts then remaining due and unpaid upon the Outstanding Secured Obligations, for the benefit of the Holders thereof, and shall be entitled to recover judgment for any portion of the same remaining unpaid, with interest as aforesaid. No recovery of any such

judgment upon any property of the Company shall affect or impair the lien of this Indenture upon the Trust Estate or any rights, powers or remedies of the Trustee hereunder, or any rights, powers or remedies of the Holders of the Obligations.

Section 8.7 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article, including any rents, issues, tolls, profits, revenues and other income collected pursuant to Section 8.3 (after the deductions therein provided) and any proceeds of any sale (after deducting the costs and expenses of such sale, including a reasonable compensation to the Trustee, its agents and counsel, and any taxes, assessments or liens prior to the lien of this Indenture, except any thereof subject to which such sale shall have been made), whether made under any power of sale herein granted or pursuant to judicial proceedings, and any money collected by the Trustee under Sections 5.9 and 15.5 to be applied under this Section, together with, in the case of an entry or sale or as otherwise provided herein, any other sums then held by the Trustee as part of the Trust Estate, shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal (or premium, if any) or interest, upon presentation of the Obligations and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

A. **First:** To the payment of all undeducted amounts due the Trustee under Sections 9.7 and 15.14;

B. **Second:** To the payment of the interest and principal or Redemption Price then due on the Obligations, as follows:

(1) unless the principal of all of the Obligations shall have become due and payable,

First: Interest – To the payment to the persons entitled thereto of all installments of interest then due (and, to the extent that payment of such interest is legally enforceable, interest on overdue installments of interest) on Outstanding Secured Obligations in the order of the maturity of such installments, together with accrued and unpaid interest on the Obligations theretofore called for redemption or prepayment, and, if the amount available shall not be sufficient to pay in full any installment or installments maturing on the same date, then to the payment thereof ratably, according to the amounts due thereon, to the persons entitled thereto, without any discrimination or preference; and

Second: Principal or Redemption Price – To the payment to the persons entitled thereto of the unpaid principal or Redemption Price of any Outstanding Secured Obligations which shall have become due, whether at Maturity or by call for redemption, and, if the amount available shall not be sufficient to pay in full all the Obligations which shall have become due, then to the payment thereof ratably, according to the amounts of principal or Redemption Price due, to the persons entitled thereto, without any discrimination or preference.

(2) if the principal of all of the Obligations shall have become due and payable, to the payment of the principal and interest then due and unpaid upon the Outstanding Secured Obligations without preference or priority of principal over interest or of interest over principal, or of any installment of interest over any other installment of interest, or of any Obligation over any other Obligation, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto without any discrimination or preference except as to any difference in the respective rates of interest specified in the Obligations; and

C. **Third:** To the payment of all other amounts due and unpaid on or under the Outstanding Secured Obligations including, but not limited to, penalties, premiums, costs and expenses payable to the Holders; and

D. **Fourth:** To the payment of any amounts due under Obligations to maintain the value of reserve funds established and maintained in connection with debt securities (i) secured by a pledge of certain Obligations, (ii) issued on behalf of the Company and (iii) with respect to which an opinion was delivered on the date of the issuance of such securities to the effect that the interest on such securities is excluded from the gross income of the holder of such securities pursuant to the Internal Revenue Code, as amended.

E. **Fifth:** To the payment of the remainder, if any, to the Company or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

Section 8.8 Receiver.

Upon the occurrence of an Event of Default and commencement of judicial proceedings by the Trustee to enforce any right under this Indenture, the Trustee shall be entitled, as against the Company, without notice or demand and without regard to the adequacy of the security for the Obligations or the solvency of the Company, to the appointment of a receiver of the Trust Estate, and of the rents, issues, profits, revenues and other income thereof, but, notwithstanding the appointment of any receiver, the Trustee shall be entitled to retain possession and control of, and to collect and receive the income from, cash, securities and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder.

Section 8.9 Trustee May File Proofs of Claim.

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial proceeding relative to the Company or any other obligor upon the Obligations or the property of the Company or of such other obligor or their creditors, the Trustee (irrespective of whether the principal of the Obligations shall then be due and payable, as therein expressed or by declaration or otherwise, and irrespective of whether the Trustee shall have made any demand on the Company for the payment of overdue principal, premium or interest) shall be entitled and empowered, by intervention in such proceeding or otherwise,

A. to file and prove a claim for the whole amount of principal (and premium, if any) and interest owing and unpaid in respect of the Outstanding Secured Obligations and to file such other papers or documents as may be necessary or advisable in order to have the claims of the

Trustee (including any claim for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel) and of the Holders allowed in such judicial proceeding, and

B. to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee, and in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Sections 9.7 and 15.14.

Nothing herein contained shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 8.10 Trustee May Enforce Claims Without Possession of Obligations.

All rights of action and claims under this Indenture or the Obligations may be prosecuted and enforced by the Trustee without the possession of any of the Obligations or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust. Any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Obligations in respect of which such judgment has been recovered.

Section 8.11 Limitation on Suits.

No Holder of any Obligation shall have any right to institute any proceeding, judicial or otherwise, under or with respect to this Indenture, or for the appointment of a receiver or trustee or for any other remedy hereunder, unless

A. such Holder has previously given written notice to the Trustee of a continuing Event of Default;

B. the Holders of not less than 25% in principal amount of the Outstanding Obligations shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

C. such Holder or Holders (other than the United States of America or its agencies or instrumentalities) have offered to the Trustee indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities to be incurred in compliance with such request;

D. the Trustee for sixty (60) days after its receipt of such notice, request and offer of indemnity, if any is required pursuant to paragraph C, has failed to institute any such proceeding; and

E. no direction inconsistent with such written request has been given to the Trustee during such sixty (60) day period by the Holders of a majority in principal amount of the Outstanding Obligations;

it being understood and intended that no one or more Holders of Obligations shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Indenture to affect, disturb or prejudice the lien of this Indenture or the rights of any other Holders of Obligations, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Indenture, except in the manner herein provided and for the equal and ratable benefit of all Outstanding Secured Obligations.

Section 8.12 Unconditional Right of Holders to Receive Principal, Premium and Interest.

Notwithstanding any other provision in this Indenture, the Holder of any Obligation shall have the absolute and unconditional right to receive payment of the principal of (and premium, if any) and interest on such Obligation on the respective Stated Maturities expressed in such Obligation (or, in the case of redemption, on the Redemption Date) and to institute suit for the enforcement of any such payment, and such rights shall not be impaired without the consent of such Holder.

Section 8.13 Restoration of Positions.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Indenture by foreclosure, entry or otherwise and such proceeding has been discontinued or abandoned for any reason or has been determined adversely to the Trustee or to such Holder, then and in every such case the Company, the Trustee and the Holders shall, subject to any determination in such proceeding, be restored to their former positions hereunder, and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

Section 8.14 Rights and Remedies Cumulative.

Except as otherwise provided in Sections 3.7, 7.3 and 13.3 with respect to the replacement or payment of mutilated, destroyed, lost or stolen Obligations or the payment of certain moneys, no right or remedy herein conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

Section 8.15 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Obligation to exercise any right or remedy accruing upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

Section 8.16 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Obligations shall have the right, during the continuance of an Event of Default,

A. to require the Trustee to proceed to enforce this Indenture, either by judicial proceedings for the enforcement of the payment of the Obligations and the foreclosure of this Indenture, the sale of the Trust Estate or otherwise or, at the election of the Trustee, by the exercise of the power of entry and/or sale hereby conferred; and

B. to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee hereunder, **PROVIDED** that

(1) such direction shall not be in conflict with any rule of law or this Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction; and

(3) the Trustee shall not determine that the action so directed would be unjustly prejudicial to the Holders not taking part in such direction.

Section 8.17 Waiver of Past Defaults.

Before any sale of any of the Trust Estate has been made under this Article or any judgment or decree for payment of money due has been obtained by the Trustee as provided in this Article, the Holders of not less than a majority in principal amount of the Outstanding Obligations may, by Act of such Holders delivered to the Trustee and the Company, on behalf of the Holders of all the Obligations waive any past default hereunder and its consequences, except a default

A. in the payment of the principal of (or premium, if any) or interest on any Obligation, or

B. in respect of a covenant or provision hereof which under Article XII cannot be modified or amended without the consent of the Holder of each Outstanding Obligation affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

Section 8.18 Undertaking for Costs.

All parties to this Indenture agree, and each Holder of any Obligation by acceptance thereof shall be deemed to have agreed, that any court may in its discretion require, in any suit for the enforcement of any right or remedy under this Indenture, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, the filing by any party in such suit of an undertaking to pay the costs of such suit, and that such court may in its discretion assess reasonable costs, including reasonable attorneys' fees, against any party in such suit, having due regard to the merits and good faith of the claims or defenses made by such party; but the provisions of this Section shall not apply to any suit instituted by the Trustee, by the United States of America (or its agencies or instrumentalities) or by any Holder, or group of Holders, holding in the aggregate more than ~~40~~25% in principal amount of the Outstanding Obligations, or to any suit instituted by any Holder for the enforcement of the payment of the principal of (or premium, if any) or interest on any Obligation on or after the respective Stated Maturities expressed in such Obligation (or, in the case of redemption, on or after the Redemption Date).

Section 8.19 Waiver of Appraisal and Other Laws.

To the full extent that it may lawfully so agree, the Company will not at any time insist upon, plead, claim or take the benefit or advantage of, any appraisal, valuation, stay, extension or redemption law now or hereafter in force, in order to prevent or hinder the enforcement of this Indenture or the absolute sale of the Trust Estate, or any part thereof, or the possession thereof by any purchaser at any sale under this Article; and the Company, for itself and all who may claim under it, so far as it or they now or hereafter may lawfully do so, hereby waives the benefit of all such laws. The Company, for itself and all who may claim under it, waives, to the extent that it may lawfully do so, all right to have the property in the Trust Estate marshaled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Indenture may order the sale of the Trust Estate as an entirety.

If any law in this Section referred to and now in force, of which the Company or its successor or successors might take advantage despite this Section, shall hereafter be repealed or cease to be in force, such law shall not thereafter be deemed to constitute any part of the contract herein contained or to preclude the application of this Section.

Section 8.20 Suits to Protect the Trust Estate.

The Trustee shall have power to institute and to maintain such proceedings as it may deem expedient to prevent any impairment of the Trust Estate by any acts which may be unlawful or in violation of this Indenture and to protect its interests and the interests of the Holders in the Trust Estate and in the rents, issues, profits, revenues, proceeds, products and other income arising therefrom, including power to institute and maintain proceedings to restrain the enforcement of or compliance with any governmental enactment, rule or order that may be unconstitutional or otherwise invalid, if the enforcement of or compliance with such enactment, rule or order would impair the security hereunder or be prejudicial to the interests of the Holders or the Trustee.

Section 8.21 Remedies Subject to Applicable Law.

All rights, remedies and powers provided by this Article may be exercised only to the extent that the exercise thereof does not violate any applicable provision of law, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling and to be limited to the extent necessary so that they will not render this Indenture invalid, unenforceable or not entitled to be recorded, registered, or filed under the provisions of any applicable law.

Section 8.22 Principal Amount of Original Issue Discount Obligation.

The principal amount of an Original Issue Discount Obligation shall, for purposes of voting, directing the time, place or manner or exercising any remedy, applying moneys, authenticating and delivering Additional Obligations, and release of any part of the Trust Estate and for all other purposes hereunder, be determined in the manner specified in the Supplemental Indenture establishing the series to which such Original Issue Discount Obligation belongs.

Section 8.23 Default Not Affecting All Series of Obligations.

In case an Event of Default affecting the rights of the Holders of Obligations of any one or more series which does not similarly affect the rights of Holders of all other series of Obligations at the time Outstanding (including an Event of Default specified in a Supplemental Indenture creating a series of Obligations) shall have occurred and be continuing, then whatever action (including the acceleration of Obligations under Section 8.2, the giving of any request or direction to the Trustee under Section 8.11 or 8.16 or the waiver of any default under Section 8.17) may or shall be taken under this Article upon the occurrence of such Event of Default by or upon the request of the Holders of a specified percentage in principal amount of the Obligations then Outstanding, may or shall be taken in respect of the Obligations then Outstanding of the series as to which such Event of Default shall have been made, by or upon the request of the Holders of the same percentage in principal amount of such series then Outstanding; provided, however, nothing in this Section 8.23 shall preclude the occurrence of an Event of Default under paragraph A or B of Section 8.1 simply because the default in payment has only occurred with respect to one series of Obligations.

ARTICLE IX

THE TRUSTEE

Section 9.1 Certain Duties and Responsibilities.

- A. Except during the continuance of an Event of Default,
 - (1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture, and no implied covenants or obligations shall be read into this Indenture against the Trustee; and
 - (2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon

certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether or not they conform to the requirements of this Indenture.

B. In case an Event of Default exists, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

C. No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph shall not be construed to limit the effect of paragraph A above;

(2) the Trustee shall not be liable for any error of judgment made in good faith by a Responsible Officer, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Obligations relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture; and

(4) no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

D. Whether or not therein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

Section 9.2 Notice of Defaults.

Within ninety (90) days after the occurrence of any default hereunder, the Trustee shall transmit by mail to all Holders entitled to receive reports pursuant to Section 10.3C, if operative, and if Section 10.3C is not operative, to all Holders of Obligations as their names and addresses appear in the Obligation Register, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; **PROVIDED, HOWEVER**, that, except in the case of a default in the payment, repayment or prepayment of the principal of (or premium, if any) or interest on any Obligation or in the payment of any sinking or purchase fund installment, the Trustee shall be protected in withholding such notice if and so long as the board of directors, the executive committee or a trust committee of directors and/or Responsible Officers of the Trustee

in good faith determine that the withholding of such notice is in the interests of the Holders; and **PROVIDED FURTHER** that, in the case of any default of the character specified in Section 8.1C or 8.1D, no such notice to Holders shall be given until at least sixty (60) days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

Section 9.3 Certain Rights of Trustee.

Except as otherwise provided in Section 9.1:

A. the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

B. any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

C. whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

D. the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Trustee hereunder in good faith and in reliance thereon;

E. the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders pursuant to this Indenture, unless such Holders (other than the United States of America or its agencies or instrumentalities) shall have offered to the Trustee security or indemnity reasonably satisfactory to the Trustee against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

F. the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, or, except as specifically provided herein, compliance by the Company with its agreements or covenants in this Indenture, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney;

G. the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder;

H. the Trustee shall not be personally liable, in case of entry by it upon the Trust Estate, for debts contracted or liabilities or damages incurred in the management or operation of the Trust Estate;

I. the Trustee shall not be required to take notice or be deemed to have notice of any default hereunder unless the Trustee shall be specifically notified in writing of such default by the Company or by the Holder of any Obligation as to the Events of Default described in paragraph A or B of Section 8.1, or by the Holders of not less than ~~ten~~twenty-five percent (~~10~~25%) of the Holders of Obligations as to any other Event of Default;

J. The Trustee shall have no duty to inquire as to the performance of the Company with respect to the covenants contained in Article 13. In addition, the Trustee shall not be deemed to have knowledge of an Event of Default except any Default or Event of the Default of which the Trustee shall have received written notification or obtained actual knowledge; and

K. Delivery of reports, information and documents to the Trustee under Section 11.4, is for informational purposes only and the Trustee's receipt of the foregoing shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of their covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officers' Certificates).

Section 9.4 Not Responsible for Recitals or Issuance of Obligations or Application of Proceeds.

The recitals contained herein and in the Obligations, except the Trustee's certificate of authentication on the Obligations, shall be taken as the statements of the Company, and the Trustee assumes no responsibility for their correctness. The Trustee makes no representations as to the value or condition of the Trust Estate or any part thereof, or as to the title of the Company thereto or as to the security afforded thereby or hereby, or as to the validity or genuineness of any securities at any time pledged and deposited with the Trustee hereunder, or as to the validity or sufficiency of this Indenture or of the Obligations. The Trustee shall not be accountable for the use or application by the Company of Obligations or the proceeds thereof or of any money paid to the Company or upon Company Order under any provision hereof.

Section 9.5 May Hold Obligations.

The Trustee, any Paying Agent, Obligation Registrar, Authenticating Agent or any other agent of the Company, in its individual or any other capacity, may become the owner or pledgee of Obligations and, subject to Sections 9.8 and 9.13, if operative, may otherwise deal with the Company with the same rights it would have if it were not Trustee, Paying Agent, Obligation Registrar, Authenticating Agent or such other agent.

Section 9.6 Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed with the Company.

Section 9.7 Compensation and Reimbursement.

The Company agrees

A. to pay to the Trustee from time to time such compensation as may be specifically agreed upon with the Trustee and, absent specific agreement, reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

B. except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except any such expense, disbursement or advance as may be attributable to the Trustee's negligence or bad faith; and

C. to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense incurred without negligence or bad faith on its part, arising out of or in connection with the acceptance or administration of this trust, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder.

All such payments and reimbursements shall be made with interest at the rate of 10% per annum.

As security for the performance of the obligations of the Company under this Section, the Trustee shall be secured under this Indenture by a lien prior to the Obligations, and for the payment of such compensation, expenses, reimbursements and indemnity the Trustee shall have the right to use and apply any Trust Moneys held by it under Article VI.

Section 9.8 Disqualification; Conflicting Interests.

A. If the Trustee has or shall acquire any conflicting interest, as defined in this Section (certain terms being defined and percentages calculated as hereinafter stated in this Section), if the default to which such conflicting interest relates has not been cured or duly waived or otherwise eliminated within the ninety (90) day period immediately following the date on which the Trustee ascertains that it has such conflicting interest, it shall, within such ninety (90) day period, either eliminate such conflicting interest or resign in the manner and with the effect hereinafter specified in this Article.

B. In the event that the Trustee shall fail to comply with the provisions of paragraph A above the Trustee shall, within ten (10) days after the expiration of such ninety (90) day period, transmit notice of such failure to the Holders in the manner and to the extent provided in Section 10.3C.

C. For the purposes of this Section, the Trustee shall be deemed to have a conflicting interest if there is an Event of Default and

(1) the Trustee is trustee under another indenture under which any other securities, or certificates of interest or participation in any other securities, of the Company

are outstanding, or is trustee for more than one outstanding series of securities, as hereafter defined, under a single indenture of the Company, unless such other indenture is a collateral trust indenture under which the only collateral consists of Obligations issued under or secured by this Indenture, **PROVIDED** that there shall be excluded from the operation of this clause other series under this Indenture and any indenture or indentures under which other securities, or certificates of interest or participation in other securities, of the Company are outstanding, if the Company shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures or under more than one outstanding series under a single indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures or with respect to such series; or

(2) the Trustee or any of its directors or executive officers is an underwriter for the Company; or

(3) the Trustee directly or indirectly controls or is directly or indirectly controlled by or is under direct or indirect common control with the Company or an underwriter for the Company; or

(4) the Trustee or any of its directors or executive officers is a director, officer, partner, employee, appointee or representative of the Company, or of an underwriter (other than the Trustee itself) for the Company who is currently engaged in the business of underwriting, except that (i) one individual may be a director or an executive officer, or both, of the Trustee and a director or an executive officer, or both, of the Company but may not be at the same time an executive officer of both the Trustee and the Company; (ii) if and so long as the number of directors of the Trustee in office is more than nine, one additional individual may be a director or an executive officer, or both, of the Trustee and a director of the Company; and (iii) the Trustee may be designated by the Company or by any underwriter for the Company to act in the capacity of transfer agent, registrar, custodian, paying agent, fiscal agent, escrow agent, or depositary, or in any other similar capacity, or, subject to the provisions of clause (1) above, to act as trustee, whether under an indenture or otherwise; or

(5) 10% or more of the voting securities of the Trustee is beneficially owned either by the Company or by any director, partner, or executive officer thereof, or 20% or more of such voting securities is beneficially owned, collectively, by any two or more of such persons; or 10% or more of the voting securities of the Trustee is beneficially owned either by an underwriter for the Company or by any director, partner or executive officer thereof, or is beneficially owned, collectively, by any two or more such persons; or

(6) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), (i) 5% or more of the voting securities, or 10% or more of any other class of security, of the Company not including the obligations issued under or secured by this Indenture and securities issued

under any other indenture under which the Trustee is also trustee, or (ii) 10% or more of any class of security of an underwriter for the Company; or

(7) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), 5% or more of the voting securities of any person who, to the knowledge of the Trustee, owns 10% or more of the voting securities of, or controls directly or indirectly or is under direct or indirect common control with, the Company; or

(8) the Trustee is the beneficial owner of, or holds as collateral security for an obligation which is in default (as hereinafter in this paragraph defined), 10% or more of any class of security of any person who, to the knowledge of the Trustee, owns 50% or more of the voting securities of the Company; or

(9) the Trustee owns, upon the occurrence of an Event of Default (or any occurrence that would constitute an Event of Default upon the lapse of time or giving of notice) or any anniversary of such date while such Event of Default or occurrence remains outstanding, in the capacity of executor, administrator, testamentary or inter vivos trustee, guardian, committee or conservator, or in any other similar capacity, an aggregate of 25% or more of the voting securities, or of any class of security, of any person, the beneficial ownership of a specified percentage of which would have constituted a conflicting interest under clauses (6), (7) or (8) above. As to any such securities of which the Trustee acquired ownership through becoming executor, administrator, or testamentary trustee of an estate which included them, the provisions of the preceding sentence shall not apply, for a period of two (2) years from the date of such acquisition, to the extent that such securities included in such estate do not exceed 25% of such voting securities or 25% of any such class of security. Promptly after any Event of Default (or other occurrence that would constitute an Event of Default upon the lapse of time or giving of notice) and annually in each succeeding year that any Event of Default or other occurrence remains outstanding, the Trustee shall make a check of its holdings of such securities in any of the above-mentioned capacities as of such dates. If the Company fails to make payment in full of the principal of, or the premium, if any, or interest on, any of the Obligations when and as the same becomes due and payable, and such failure continues for thirty (30) days thereafter, the Trustee shall make a prompt check of its holdings of such securities in any of the above-mentioned capacities as of the date of the expiration of such thirty (30) day period, and after such date, notwithstanding the foregoing provisions of this clause, all such securities so held by the Trustee, with sole or joint control over such securities vested in it, shall, but only so long as such failure shall continue, be considered as though beneficially owned by the Trustee for the purposes of clauses (6), (7) and (8) above; or

(10) except under the circumstances described in clauses (1), (3), (4), (5) or (6) of Section ~~10.139~~13B, the Trustee shall become a creditor of the Company.

For purposes of clause (1) above, the term “series of securities” or “series” means a series, class or group of securities issuable under an indenture pursuant to whose terms holders of one such series may vote to direct the Trustee, or otherwise take action pursuant to a vote of such Holders, separately from Holders of another such series; **PROVIDED** that “series of securities” or

“series” shall not include any series of securities issuable under an indenture if all such series rank equally and are wholly unsecured.

The specification of percentages in clauses (5) to (9) inclusive, above, shall not be construed as indicating that the ownership of such percentages of the securities of a person is or is not necessary or sufficient to constitute direct or indirect control for the purposes of clause (3) or (7) above.

For the purposes of clauses (6), (7), (8) and (9) above only, (a) the terms “**security**” and “**securities**” shall include only such securities as are generally known as corporate securities, but shall not include any note or other evidence of indebtedness issued to evidence an obligation to repay moneys lent to a person by one or more banks, trust companies or banking firms, or any certificate of interest or participation in any such note or evidence of indebtedness; (b) an obligation shall be deemed to be “**in default**” when a default in payment of principal shall have continued for thirty (30) days or more and shall not have been cured; and (c) the Trustee shall not be deemed to be the owner or holder of (i) any security which it holds as collateral security, as trustee or otherwise, for an obligation which is not in default as defined above, or (ii) any security which it holds as collateral security under this Indenture, irrespective of any default hereunder, or (iii) any security which it holds as agent for collection, or as custodian, escrow agent, or depository, or in any similar representative capacity.

Except in the case of the failure to pay, repay or prepay the principal of or interest on any Obligation, or to pay any sinking or purchase fund installment, on the date on which it becomes due, the Trustee shall not be required to resign as provided by this paragraph if such Trustee shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that

(a) the Event of Default (or other event that would constitute an Event of Default upon the passage of time or giving of notice) otherwise giving rise to an obligation by the Trustee to resign may be cured or waived during a reasonable period and under the procedures described in such application, and

(b) a stay of the Trustee’s duty to resign will not be inconsistent with the interests of Holders of the Obligations. The filing of such an application shall automatically stay the performance of the duty to resign until the Commission orders otherwise.

Any resignation of the Trustee shall become effective only upon the appointment of a successor trustee and such successor’s acceptance of such an appointment.

D. For the purposes of this Section:

(1) The term “**underwriter**” when used with reference to the Company means every person who, within one year prior to the time as of which the determination is made, has purchased from the Company with a view to, or has offered or sold for the Company in connection with, the distribution of any security of the Company outstanding at such time, or has participated or has had a direct or indirect participation in any such undertaking, or has participated or has had a participation in the direct or indirect underwriting of any such

undertaking, but such term shall not include a person whose interest was limited to a commission from an underwriter or dealer not in excess of the usual and customary distributors' or sellers' commission.

(2) The term “**director**” means any director of a corporation, or any individual performing similar functions with respect to any organization whether incorporated or unincorporated.

(3) The term “**person**” means an individual, a corporation, a partnership, an association, a joint-stock company, a trust, an unincorporated organization, or a government or political subdivision thereof. As used in this clause, the term “trust” shall include only a trust where the interest or interests of the beneficiary or beneficiaries are evidenced by a security.

(4) The term “**voting security**” means any security presently entitling the owner or holder thereof to vote in the direction or management of the affairs of a person, or any security issued under or pursuant to any trust, agreement or arrangement whereby a trustee or trustees or agent or agents for the owner or holder of such security are presently entitled to vote in the direction or management of the affairs of a person.

(5) The term “**Company**” means any obligor upon the Obligations.

(6) The term “**Trustee**” includes any separate or co-trustee appointed under Section 9.14.

(7) The term “**executive officer**” means the president, every vice president, every trust officer, the cashier, the secretary, and the treasurer of a corporation, and any individual customarily performing similar functions with respect to any organization whether incorporated or unincorporated, but shall not, include the chairman of the board of directors.

E. The percentages of voting securities and other securities specified in this Section shall be calculated in accordance with the following provisions:

(1) A specified percentage of the voting securities of the Trustee, the Company or any other person referred to in this Section (each of whom is referred to as a “**person**” in this clause) means such amount of the outstanding voting securities of such person as entitles the holder or holders thereof to cast such specified percentage of the aggregate votes which the holders of all the outstanding voting securities of such person are entitled to cast in the direction or management of the affairs of such person.

(2) A specified percentage of a class of securities of a person means such percentage of the aggregate amount of securities of the class outstanding.

(3) The term “**amount**” means, when used in regard to securities, the principal amount if relating to evidences of indebtedness, the number of shares if relating to capital shares, and the number of units if relating to any other kind of security.

(4) The term “**outstanding**” means issued and not held by or for the account of the issuer. The following securities shall not be deemed outstanding within the meaning of this definition:

(a) securities of an issuer held in a sinking fund relating to securities of the issuer of the same class;

(b) securities of an issuer held in a sinking fund relating to another class of securities of the issuer, if the obligation evidenced by such other class of securities is not in default as to principal or interest or otherwise;

(c) securities pledged by the issuer thereof as security for an obligation of the issuer not in default as to principal or interest or otherwise; and

(d) securities held in escrow if placed in escrow by the issuer thereof;

PROVIDED, HOWEVER, that any voting securities of an issuer shall be deemed outstanding if any person other than the issuer is entitled to exercise the voting rights thereof.

(5) A security shall be deemed to be of the same class as another security if both securities confer upon the holder or holders thereof substantially the same rights and privileges; **PROVIDED, HOWEVER**, that, in the case of secured evidences of indebtedness, all of which are issued under a single indenture, differences in the interest rates or maturity dates of various series thereof shall not be deemed sufficient to constitute such series as different classes, and **PROVIDED FURTHER** that, in the case of unsecured evidences of indebtedness, differences in the interest rates or maturity dates thereof shall not be deemed sufficient to constitute them securities of different classes, whether or not they are issued under a single indenture.

Section 9.9 Corporate Trustee Required; Eligibility.

There shall at all times be a Trustee hereunder which (i) shall be a corporation organized and doing business under the laws of the United States of America or of any State or Territory thereof or the District of Columbia, which is authorized under such laws to exercise corporate trust powers, and subject to supervision or examination by federal, state, territorial or District of Columbia authority, and (ii) shall have a combined capital and surplus of at least \$50,000,000. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of such supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. Neither the Company nor any Person directly or indirectly controlling, controlled by or under common control with the Company shall serve as Trustee hereunder. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article.

Section 9.10 Resignation and Removal; Appointment of Successor.

A. No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 9.11.

B. The Trustee may resign at any time by giving written notice thereof to the Company. If an instrument of acceptance by a successor Trustee shall not have been delivered to the Trustee within thirty (30) days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

C. Unless an Event of Default (or an occurrence that would constitute an Event of Default upon the passage of time or the giving of notice) exists, the Company may remove the Trustee with or without cause, by delivery to the Trustee of a Board Resolution effecting such removal. The Trustee may be removed with or without cause at any time by Act of the Holders of a majority in principal amount of the Outstanding Obligations, delivered to the Trustee and to the Company.

D. If at any time:

(1) the Trustee shall fail to comply with Section 9.8A after written request therefor by the Company or by any Holder who has been a bona fide Holder of an Obligation for at least six (6) months, or

(2) the Trustee shall cease to be eligible under Section 9.9 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(3) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 8.18, any Holder who has been a bona fide Holder of an Obligation for at least six (6) months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

E. If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution, or the Holders of a majority in principal amount of the Outstanding Obligations shall promptly appoint a successor Trustee. In case all or substantially all of the Trust Estate shall be in the possession of a receiver or trustee lawfully appointed, such receiver or trustee, by written instrument, may similarly appoint a successor to fill such vacancy until a new Trustee shall be so appointed by the Holders. If, within one (1) year after such resignation, removal or incapability or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Obligations delivered to the Company and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such

appointment, become the successor Trustee and supersede the successor Trustee appointed by the Company or by such receiver or trustee. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, subject to Section 8.18, any Holder who has been a bona fide Holder of an Obligation for at least six (6) months may, on behalf of himself and all other similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

F. The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee by mailing written notice of such event by first-class mail, postage prepaid, to the Holders of Obligations as their names and addresses appear in the Obligation Register or as their names and their addresses have been previously provided to the Trustee in writing. Each notice shall include the name of the successor Trustee and the address of its principal corporate trust office. Upon the appointment of a new Trustee in the place of, any Trustee named herein acting hereunder, an instrument, executed and acknowledged by the Trustee, shall be conclusive proof of the proper substitution of such successor or successors or new Trustee, who shall have all the estate powers, duties, rights and privileges of the predecessor Trustee.

G. Upon the resignation, removal or incapability of the Trustee, all books and records of the Trustee relating to the Trust Estate shall be sent to the successor Trustee within sixty (60) days of such resignation, removal or incapability. In the event (i) the Trustee resigns due to any conflict of interest or incapability, (ii) there is any change in control, merger, conversion, consolidation or succession to the assets of the Trustee or (iii) the Company removes the Trustee as a result of any such change in control, merger, conversion, consolidation or succession, the Trustee shall pay all costs associated with transferring the Trust Estate to a successor Trustee.

Section 9.11 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the estates, properties, rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument conveying and transferring to such successor Trustee upon the trusts herein expressed all the estates, properties, rights, powers and trusts of the retiring Trustee, and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder, subject nevertheless to its lien, if any, provided for in Sections 9.7 and 15.14. Upon request of any such successor Trustee, the Company shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such estates, properties, rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article, to the extent operative.

Section 9.12 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all of the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, to the extent operative, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Obligations shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Obligations so authenticated with the same effect as if such successor Trustee had itself authenticated such Obligations.

Section 9.13 Preferential Collection of Claims against Company.

A. Subject to paragraph B below, if the Trustee shall be or shall become a creditor, directly or indirectly, secured or unsecured, of the Company within three (3) months prior to a default (as defined in paragraph C below), or subsequent to such a default, then, unless and until such default shall be cured, the Trustee shall set apart and hold in a special account for the benefit of the Trustee individually, the Holders of the Obligations and the holders of other indenture securities (as defined in paragraph C below):

(1) an amount equal to any and all reductions in the amount due and owing upon any claim as such creditor in respect of principal or interest, effected after the beginning of such three (3) month period and valid as against the Company and its other creditors, except any such reduction resulting from the receipt or disposition of any property described in clause (2) below, or from the exercise of any right of set-off which the Trustee could have exercised if a petition in bankruptcy had been filed by or against the Company upon the date of such default; and

(2) all property received by the Trustee in respect of any claim as such creditor, either as security therefor, or in satisfaction or composition thereof, or otherwise, after the beginning of such three (3) month period, or an amount equal to the proceeds of any such property, if disposed of, **SUBJECT, HOWEVER**, to the rights, if any, of the Company and its other creditors in such property or such proceeds.

Nothing herein contained, however, shall affect the right of the Trustee

(a) to retain for its own account (i) payments made on account of any such claim by any Person (other than the Company) who is liable thereon, and (ii) the proceeds of the bona fide sale of any such claim by the Trustee to a third person, and (iii) distributions made in cash, securities or other property in respect of claims filed against the Company in bankruptcy or receivership or in proceeding for reorganization pursuant to the Federal Bankruptcy Code or applicable state law; or

(b) to realize, for its own account, upon any property held by it as security for any such claim, if such property was so held prior to the beginning of such three (3) month period; or

(c) to realize, for its own account, but only to the extent of the claim hereinafter mentioned, upon any property held by it as security for any such claim, if such claim was created after the beginning of such three (3) month period and such property was received as security therefor simultaneously with the creation thereof, and if the Trustee shall sustain the burden of proving that at the time such property was so received the Trustee had no reasonable cause to believe that a default would occur within three (3) months; or

(d) to receive payment on any claim referred to in Subclause (b) or (c) above, against the release of any property held as security for such claim as provided in Subclause (b) or (c) above, as the case may be, to the extent of the fair value of such property.

For the purposes of Subclauses (b), (c) and (d) above, property substituted after the beginning of such three (3) month period for property held as security at the time of such substitution shall, to the extent of the fair value of the property released, have the same status as the property released, and, to the extent that any claim referred to in any of said Subclauses is created in renewal of or in substitution for or for the purpose of repaying or refunding any pre-existing claim of the Trustee as such creditor, such claim shall have the same status as such pre-existing claim.

If the Trustee shall be required to account, the funds and property held in such special account and the proceeds thereof shall be apportioned among the Trustee, the Holders and the holders of other indenture securities in such manner that the Trustee, the Holders and the holders of other indenture securities realize, as a result of payments from such special account and payments of dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for liquidation or reorganization pursuant to the Federal Bankruptcy Code or applicable state law, the same percentage of their respective claims, figured before crediting to the claim of the Trustee anything on account of the receipt by it from the Company of the funds and property in such special account and before crediting to the respective claims of the Trustee and the Holders and the holders of other indenture securities dividends on claims filed against the Company in bankruptcy or receivership or in proceedings for liquidation or reorganization pursuant to the Federal Bankruptcy Code or applicable state law, but after crediting thereon receipts on account of the indebtedness represented by their respective claims from all sources other than from such dividends and from the funds and property so held in such special account. As used in this paragraph, with respect to any claim, the term “**dividends**” shall include any distribution with respect to such claim, in bankruptcy or receivership or proceedings for reorganization pursuant to the Federal Bankruptcy Code or applicable state law, whether such distribution is made in cash, securities, or other property, but shall not include any such distribution with respect to the secured portion, if any, of such claim. The court in which such bankruptcy, receivership or proceeding for reorganization is pending shall have jurisdiction (i) to apportion among the Trustee, the Holders and the holders of other indenture securities, in accordance with the provisions of this paragraph, the funds and property held in such special account and proceeds thereof, or (ii) in lieu of such apportionment, in whole or in part, to give to the provisions of this paragraph due consideration in determining the fairness of the distributions to be made to the Trustee and the Holders and the holders of other indenture securities with respect to their respective claims, in which event it shall not be necessary to liquidate or to appraise the value of any securities or other property held in such special account or as security for any such claim, or to make a specific allocation of such distributions as between the secured and unsecured

portions of such claims, or otherwise to apply the provisions of this paragraph as a mathematical formula.

Any Trustee which has resigned or been removed after the beginning of such three (3) month period shall be subject to the provisions of this subsection as though such resignation or removal had not occurred. If any Trustee has resigned or been removed prior to the beginning of such three (3) month period, it shall be subject to the provisions of this subsection if and only if the following conditions exist:

(y) the receipt of property or reduction of claim, which would have given rise to the obligation to account, if such Trustee had continued as Trustee, occurred after the beginning of such three (3) month period; and

(z) such receipt of property or reduction of claim occurred within three (3) months after such resignation or removal.

B. There shall be excluded from the operation of paragraph A above a creditor relationship arising from:

(1) the ownership or acquisition of securities issued under any indenture or any security or securities having a maturity of one year or more at the time of acquisition by the Trustee; or

(2) advances authorized by a receivership or bankruptcy court of competent jurisdiction, or by this Indenture, for the purpose of preserving any property which shall at any time be subject to the lien of this Indenture or of discharging tax liens or other prior liens or encumbrances thereon, if notice of such advances and of the circumstances surrounding the making thereof is given to the Holders at the time and in the manner provided in this Indenture; or

(3) disbursements made in the ordinary course of business in the capacity of trustee under an indenture, transfer agent, registrar, custodian, paying agent, fiscal agent or depositary, or other similar capacity; or

(4) an indebtedness created as a result of services rendered or premises rented; or an indebtedness created as a result of goods or securities sold in a cash transaction (as defined in paragraph C below); or

(5) the ownership of stock or of other securities of a corporation organized under the provisions of Section 25(a) of the Federal Reserve Act, as amended, which is directly or indirectly a creditor of the Company; or

(6) the acquisition, ownership, acceptance or negotiation of any drafts, bills of exchange, acceptances or obligations which fall within the classification of self-liquidating paper (as defined in paragraph C below).

C. For the purposes of this Section only:

(1) The term “**default**” means any failure to make payment in full of the principal of or interest on any of the Obligations or upon the other indenture securities when and as such principal or interest become due and payable;

(2) The term “**other indenture securities**” means securities upon which the Company is an obligor outstanding under any other indenture (i) under which the Trustee is also trustee, (ii) which contains provisions substantially similar to the provisions of this Section, and (iii) under which a default exists at the time of the apportionment of the funds and property held in such special account;

(3) The term “**cash transaction**” means any transaction in which full payment for goods or securities sold is made within seven days after delivery of the goods or securities in currency or in checks or other orders drawn upon banks or bankers and payable upon demand;

(4) The term “**self-liquidating paper**” means any draft, bill of exchange, acceptance or obligation which is made, drawn, negotiated or incurred by the Company for the purpose of financing the purchase, processing, manufacturing, shipment, storage or sale of goods, wares or merchandise and which is secured by documents evidencing title to, possession of, or a lien upon, the goods, wares or merchandise or the receivables or proceeds arising from the sale of the goods, wares or merchandise previously constituting the security, provided the security is received by the Trustee simultaneously with the creation of the creditor relationship with the Company arising from the making, drawing, negotiating or incurring of the draft, bill of exchange, acceptance or obligation;

(5) The term “**Company**” means any obligor upon the Obligations;

(6) The term “**Federal Bankruptcy Code**” means Title 11 of the United States Code, as it may be amended from time to time; and

(7) The term “**Trustee**” includes any separate or co-trustee appointed under Section 9.14.

Section 9.14 Co-trustees and Separate Trustees.

At any time or times, for the purpose of meeting the legal requirements of any jurisdiction in which any of the Trust Estate may at the time be located, the Company and the Trustee shall have power to appoint, and, upon the written request of the Trustee or of the Holders of at least 25% in principal amount of the Obligations Outstanding, the Company shall for such purpose join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to appoint, one or more Persons approved by the Trustee either to act as co-trustee, jointly with the Trustee, of all or any part of the Trust Estate, or to act as separate trustee of any such property, in either case with such powers as may be provided in the instrument of appointment, and to vest in such Person or Persons in the capacity aforesaid, any property, title, right or power deemed necessary or desirable, subject to the other provisions of this Section. If the Company does not join in such appointment within fifteen (15) days after the receipt by it of a

request so to do, or in case an Event of Default exists, the Trustee alone shall have power to make such appointment.

Should any written instrument from the Company be required by any co-trustee or separate trustee so appointed for more fully confirming to such co-trustee or separate trustee such property, title, right or power, any and all such instruments shall, on request, be executed, acknowledged and delivered by the Company.

Every co-trustee or separate trustee shall, to the extent permitted by law, but to such extent only, be appointed subject to the following terms, namely:

A. the Obligations shall be authenticated and delivered, and all rights, powers, duties and obligations hereunder in respect of the custody of securities, cash and other personal property held by, or required to be deposited or pledged with, the Trustee hereunder, shall be exercised solely, by the Trustee;

B. the rights, powers, duties and obligations hereby conferred or imposed upon the Trustee in respect of any property covered by such appointment shall be conferred or imposed upon and exercised or performed by the Trustee or by the Trustee and such co-trustee or separate trustee jointly, as shall be provided in the instrument appointing such co-trustee or separate trustee, except to the extent that under any law of any jurisdiction in which any particular act is to be performed, the Trustee shall be incompetent or unqualified to perform such act, in which event such rights, powers, duties and obligations shall be exercised and performed by such co-trustee or separate trustee;

C. the Trustee at any time, by an instrument in writing executed by it, with the concurrence of the Company evidenced by a Board Resolution, may accept the resignation of or remove any co-trustee or separate trustee appointed under this Section, and, in case an Event of Default has occurred and is continuing, the Trustee shall have power to accept the resignation of, or remove, any such co-trustee or separate trustee without the concurrence of the Company. Upon the written request of the Trustee, the Company shall join with the Trustee in the execution, delivery and performance of all instruments and agreements necessary or proper to effectuate such resignation or removal. A successor to any co-trustee or separate trustee so resigned or removed may be appointed in the manner provided in this Section;

D. no co-trustee or separate trustee hereunder shall be personally liable by reason of any act or omission of the Trustee, or any other such trustee hereunder; and

E. any Act of Holders delivered to the Trustee shall be deemed to have been delivered to each such co-trustee and separate trustee.

Section 9.15 Authenticating Agent.

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Obligations issued upon original issue and upon exchange, registration of transfer or partial redemption or pursuant to Sections 3.5, 3.6, 3.7 or 14.7, and Obligations so authenticated shall be entitled to the benefits of this Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Such Authenticating

Agent shall at all times be a bank or trust company, and shall at all times be a corporation organized and doing business under the laws of the United States or of any state, territory or the District of Columbia, with a combined capital and surplus of at least \$50,000,000 and authorized under such laws to exercise corporate trust powers and subject to supervision or examination by federal, state, territorial or District of Columbia authority. If such corporation publishes reports of condition at least annually pursuant to law or the requirements of such supervising or examining authority, then for the purposes of this Section the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published.

Any corporation into which any Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, consolidation or conversion to which any Authenticating Agent shall be a party, or any corporation succeeding to the corporate trust business of any Authenticating Agent, shall continue to be the Authenticating Agent hereunder, provided such corporation shall otherwise be eligible under this Section, without the execution or filing of any further act on the part of the parties hereto or the Authenticating Agent or such successor corporation.

Any Authenticating Agent may at any time resign by giving written notice of resignation to the Trustee and the Company. The Trustee may at any time terminate the agency of any Authenticating Agent by giving written notice of termination to such Authenticating Agent and the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time any Authenticating Agent shall cease to be eligible under this Section, the Trustee shall promptly appoint a successor Authenticating Agent, shall give written notice of such appointment to the Company and shall mail notice of such appointment by first-class mail, postage prepaid, to all Holders of Obligations of the applicable series as the names and addresses of such Holders appear on the Obligation Register.

If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

The Trustee agrees to pay to the Authenticating Agent from time to time reasonable compensation for its services under this Section and the Trustee shall be entitled to be reimbursed by the Company for such payments, subject to Sections 9.7 and 15.14. The provisions of Sections 3.9, 9.4 and 9.5 shall be applicable to any Authenticating Agent.

Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

If an appointment is made pursuant to this Section, the Obligations may have endorsed thereon, in lieu of the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Obligations (of the series identified therein) referred to in the Indenture, dated as of ~~_____~~, 2008, July 1, 2009, between Big Rivers Electric Corporation and U.S. Bank National Association.

As Trustee

By: _____
As Authenticating Agent

By: _____
Authorized Officer

ARTICLE X

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

Section 10.1 Company to Furnish Trustee Semi-Annual Lists of Holders.

The Company will furnish or cause to be furnished to the Trustee semiannually, not less than forty-five (45) days nor more than sixty (60) days after June 1 and December 1 of each year, and at such other times as the Trustee may request in writing, within thirty (30) days after receipt by the Company of any such request, a list in such form as the Trustee may reasonably require containing all the information in the possession or control of the Company, or any of its Paying Agents other than the Trustee, as to the names and addresses of the Holders of Obligations, obtained since the date as of which the next previous list, if any, was furnished, EXCLUDING from any such list the names and addresses received by the Trustee in its capacity as Obligation Registrar. Any such list may be dated as of a date not more than fifteen (15) days prior to the time such information is furnished and need not include information received after such date.

Section 10.2 Preservation of Information; Communications to Holders.

A. The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders of Obligations (i) contained in the most recent list furnished to the Trustee as provided in Section 10.1, (ii) received by the Trustee in the capacity of Paying Agent (if so acting) hereunder, (iii) filed with the Trustee by Holders of Obligations within the two (2) preceding years as provided for in Section 10.3C(2), or (iv) received by the Trustee in its capacity as Obligation Registrar.

The Trustee may (1) destroy any list furnished to it under Section 10.1 upon receipt of a new list so furnished, (2) destroy any information received by it as Paying Agent (if so acting) hereunder upon delivering to itself as Trustee, not earlier than forty-five (45) days after each June 1 and December 1 of each year, a list containing the names and addresses of the Holders of Obligations obtained from such information since the delivery of the next previous list, if any, (3) destroy any list delivered to itself as Trustee which was compiled from information received by it as Paying Agent (if so acting) hereunder upon the receipt of a new list so delivered, and (4) destroy,

not earlier than two (2) years after filing, any information as to their names and addresses filed with the Trustee by Holders of Obligations as provided for in Section 10.3C(2).

B. If RUS, to the extent it is a Holder, or three or more Holders of Obligations (hereinafter referred to as “**applicants**”) apply in writing to the Trustee, and furnish to the Trustee reasonable proof that each such applicant has owned an Obligation for a period of at least six (6) months preceding the date of such application, and such application states that the applicants desire to communicate with other Holders of Obligations with respect to their rights under this Indenture or under the Obligations and is accompanied by a copy of the form of proxy or other communication which such applicants propose to transmit, then the Trustee shall, within five (5) business days after the receipt of such application, at its election, either

(1) afford such applicants access to the information preserved at the time by the Trustee in accordance with Section 10.2A, or

(2) inform such applicants as to the approximate number of Holders of Obligations whose names and addresses appear in the information preserved at the time by the Trustee in accordance with Section 10.2A, and as to the approximate cost of mailing to such Holders the form of proxy or other communication, if any, specified in such application.

If the Trustee shall elect not to afford such applicants access to such information, the Trustee shall, upon the written request of such applicants, mail to each Holder whose name and address appear in the information preserved at the time by the Trustee in accordance with Section 10.2A, a copy of the form of proxy or other communication which is specified in such request, with reasonable promptness after a tender to the Trustee of the material to be mailed and of payment, or provision for the payment, of the reasonable expenses of such mailing, unless within five (5) days after such tender, the Trustee shall mail to such applicants and file with the Commission, together with a copy of the material to be mailed, a written statement to the effect that, in the opinion of the Trustee, such mailing would be contrary to the best interests of the Holders of Obligations or would be in violation of applicable law. Such written statement shall specify the basis of such opinion. If the Commission, after opportunity for a hearing upon the objections specified in the written statement so filed, shall enter an order refusing to sustain any of such objections or if, after the entry of an order sustaining one or more of such objections, the Commission shall find, after notice and opportunity for hearing, that all the objections so sustained have been met and shall enter an order so declaring, the Trustee shall mail copies of such material to all such Holders with reasonable promptness after the entry of such order and the renewal of such tender; otherwise the Trustee shall be relieved of any obligation or duty to such applicants respecting their application.

C. Every Holder of Obligations, by receiving and holding the same, agrees with the Company and the Trustee that neither the Company nor the Trustee nor any Paying Agent shall be held accountable by reason of the disclosure of any such information as to the names and addresses of the Holders of Obligations in accordance with Section 10.2B, regardless of the source from which such information was derived, and that the Trustee shall not be held accountable by reason of mailing any material pursuant to a request made under Section 10.2B.

Section 10.3 Reports by Trustee.

This Section 10.3 shall be operative only while this Indenture is required to be qualified under the TIA.

A. The term “**reporting date**” means, as used in this Section, January 1 in each year, beginning with the year 2009. Within sixty (60) days after the reporting date in each year, the Trustee shall transmit to the Holders, as provided in paragraph C below, a brief report dated as of such reporting date with respect to any of the following events which may have occurred within the previous twelve (12) months (but if no such event has occurred within such period no such report need be transmitted):

(1) any change to its eligibility under Section 9.9 and its qualifications under Section 9.8;

(2) the creation of or any material change to a relationship specified in clauses (1) through (10) of Section 9.8(C),

(3) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) which remain unpaid on the date of such report, and for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Obligations, on the Trust Estate or on any property or funds held or collected by it as Trustee, except that the Trustee shall not be required (but may elect) to report such advances if such advances so remaining unpaid aggregate not more than one-half of 1% of the principal amount of the Obligations Outstanding on the date of such report;

(4) the amount, interest rate and maturity date of all other indebtedness owing by the Company (or by any other obligor on the Obligations) to the Trustee in its individual capacity, on the date of such report, with a brief description of any property held as collateral security therefor, except an indebtedness based upon a creditor relationship arising in any manner described in Section 9.13B(2), (3), (4) or (6);

(5) any change to the property and funds, if any, physically in the possession of the Trustee as such on the date of such report;

(6) any release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) which the Trustee has not previously reported; **PROVIDED, HOWEVER**, that to the extent that the aggregate value as shown by the release papers of any or all of such released properties does not exceed an amount equal to 1% of the principal amount of Obligations then Outstanding, the report need only indicate the number of such releases, the total value of property released as shown by the release papers, the aggregate amount of cash received and the aggregate value of property received in substitution therefor as shown by the release papers;

(7) any additional issue of Obligations which the Trustee has not previously reported; and

(8) any action taken by the Trustee in the performance of its duties hereunder which it has not previously reported and which in its opinion materially affects the Obligations or the Trust Estate, except action in respect of a default, notice of which has been or is to be withheld by the Trustee in accordance with Section 9.2.

B. The Trustee shall transmit to the Holders, as provided in paragraph C below, a brief report (which the Company shall cooperate with the Trustee in preparing) with respect to

(1) the release, or release and substitution, of property subject to the lien of this Indenture (and the consideration therefor, if any) unless the fair value of such property, as set forth in the Officers' Certificate or certificate of an Engineer or Appraiser under Section 5.2, is less than 10% of the principal amount of Obligations Outstanding at the time of such release, or such release and substitution, such report to be so transmitted within ninety (90) days after such time; and

(2) the character and amount of any advances (and if the Trustee elects so to state, the circumstances surrounding the making thereof) made by the Trustee (as such) since the date of the last report transmitted pursuant to paragraph A above (or if no such report has yet been so transmitted, since the date of execution of this instrument) for the reimbursement of which it claims or may claim a lien or charge, prior to that of the Obligations, on the Trust Estate or on any property or funds held or collected by it as Trustee, and which it has not previously reported pursuant to this Subsection, except that the Trustee shall not be required (but may elect) to report such advances if such advances remaining unpaid at any time aggregate 10% or less of the principal amount of the Obligations Outstanding at such time, such report to be transmitted within ninety (90) days after such time.

C. **Reports pursuant to this Section shall be transmitted by mail:**

(1) to all Holders of Obligations, as the names and addresses of such Holders appear in the Obligation Register;

(2) to such Holders as have, within the two (2) years preceding such transmission, filed their names and addresses with the Trustee for that purpose; and

(3) except in the case of reports pursuant to paragraph B above, to all Holders whose names and addresses have been furnished to or received by the Trustee pursuant to Section 10.1.

D. A copy of each such report shall, at the time of such transmission to Holders, be filed by the Trustee with each stock exchange upon which any of the Obligations are listed and also with the Commission. The Company will notify the Trustee when the Obligations are listed on any stock exchange.

Section 10.4 Reports by Company.

This Section 10.4 shall be operative only while this Indenture is required to be qualified under the TIA.

The Company shall:

A. file with the Trustee, within fifteen (15) days after the Company is required to file the same with the Commission, copies of the annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may from time to time by rules and regulations prescribe) which the Company may be required to file with the Commission pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934; or, if the Company is not required to file information, documents or reports pursuant to either of said Sections, then it will file with the Trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such of the supplementary and periodic information, documents and reports which may be required pursuant to Section 13 of the Securities Exchange Act of 1934 in respect of a security listed and registered on a national securities exchange as may be prescribed in such rules and regulations;

B. file with the Trustee and the Commission, in accordance with rules and regulations prescribed by the Commission, such additional information, documents and reports with respect to compliance by the Company with the conditions and covenants of this Indenture as may be required by such rules and regulations; and

C. transmit to the Holders of Obligations, within thirty (30) days after the filing thereof with the Trustee, in the manner and to the extent provided in Section 10.3C with respect to reports pursuant to Section 10.3A, such summaries of any information, documents and reports required to be filed by the Company pursuant to paragraphs A and B above as may be required by rules and regulations prescribed by the Commission.

ARTICLE XI

CONSOLIDATION, MERGER, CONVEYANCE OR TRANSFER

Section 11.1 Consolidation, Merger, Conveyance or Transfer only on Certain Terms.

The Company shall not consolidate with or merge into any other Person or convey or transfer the Trust Estate substantially as an entirety to any Person, unless:

A. such consolidation, merger, conveyance or transfer shall be on such terms as shall fully preserve the lien and security hereof as provided for in this Article and the rights and powers of the Trustee and the Holders of the Obligations hereunder;

B. the Person formed by such consolidation or into which the Company is merged or the Person which acquires by conveyance or transfer the Trust Estate substantially as an entirety shall be a Person organized and validly existing under the laws of the United States of America, any state thereof or the District of Columbia and shall execute and deliver to the Trustee a Supplemental Indenture in recordable form, meeting the requirements of Section 11.2 and containing:

(1) an assumption by such successor Person of the due and punctual payment of the principal of (and premium, if any) and interest on all the Obligations and, subject to

Section 11.2B, the performance and observance of every covenant and condition of this Indenture to be performed or observed by the Company, and

(2) a grant, conveyance, transfer and mortgage complying with Section 11.2;

C. immediately after giving effect to such transaction, no Event of Default hereunder shall exist; and

D. the Company shall have delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each of which shall state that such consolidation, merger, conveyance or transfer and such Supplemental Indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

Section 11.2 Successor Person Substituted.

Upon any consolidation or merger or any conveyance or transfer of the Trust Estate substantially as an entirety in accordance with Section 11.1, the successor Person formed by such consolidation or into which the Company is merged or to which such conveyance or transfer is made shall succeed to, and be substituted for, and may exercise every right and power of, the Company under this Indenture with the same effect as if such successor Person had been named as the Company herein; **SUBJECT, HOWEVER**, to the following limitations:

A. If the Supplemental Indenture required by Section 11.1 shall contain a grant, conveyance, transfer and mortgage in terms sufficient to include and subject to the lien of this Indenture, subject only to Permitted Exceptions and any Prior Liens permitted by Section 13.6, all property, rights, privileges and franchises owned by the successor Person on the date of the consolidation, merger, transfer or conveyance and which may be thereafter acquired by such successor Person (other than Excepted Property and Excluded Property), then such successor Person may cause to be executed, in its own name or in the name of the Company prior to such succession, and delivered to the Trustee for authentication, any Obligations issuable hereunder; and upon request of such successor Person, and subject to all the terms of this Indenture, the Trustee shall authenticate and deliver any Obligations which shall have been previously executed and delivered by the Company to the Trustee for authentication, and any Obligations which such successor Person shall thereafter, in accordance with this Indenture, cause to be executed and delivered to the Trustee for such purpose. Such changes in language and form (but not in substance) may be made in such Obligations as may be appropriate in view of such consolidation, merger, conveyance or transfer.

B. If the Supplemental Indenture required by Section 11.1 shall not contain the grant, conveyance, transfer and mortgage described in paragraph A above, then such successor Person shall not be entitled to procure the authentication and delivery of any Obligations issuable hereunder (except for Obligations issued under Sections 3.5, 3.6, 3.7 and 14.7), and this Indenture shall not, by virtue of such consolidation, merger, conveyance or transfer, or by virtue of such Supplemental Indenture, or by virtue of the Granting Clauses, become a lien upon, and the term Trust Estate shall not be deemed to include, any of the property, rights, privileges and franchises of such successor Person owned by the successor Person at the time of such consolidation, merger, conveyance or transfer (unless such successor Person, in its discretion shall subject the same to the

lien hereof), but this Indenture shall become and be a lien, subject to only Permitted Exceptions and any Prior Liens permitted by Section 13.6, upon only the following property, rights, privileges and franchises acquired by such successor Person after the date of such consolidation, merger, conveyance or transfer, to wit:

(1) all betterments, extensions, improvements, additions, repairs, renewals, replacements, substitutions and alterations to, upon, for and of the property, rights, privileges and franchises subject to the lien hereof, and all property constituting appurtenances of the Trust Estate;

(2) all property made the basis of the withdrawal of cash from the Trustee or the release of property from the lien of this Indenture;

(3) all property acquired or constructed with the proceeds of (i) any insurance on any part of the Trust Estate, including with the proceeds of insurance on the Trust Estate not required to be paid to the Trustee under Section 13.8, or (ii) any part of the Trust Estate released from the lien of this Indenture or disposed of free from any such lien or taken by eminent domain;

(4) all property acquired pursuant to Section 13.7 to maintain and preserve and keep the Trust Estate in good condition, repair and working order and all property acquired or constructed with Trust Moneys paid over upon Company Request under Section 6.6; and

(5) all property, leases, rights-of-way, franchises, licenses, permits or easements acquired in alteration, substitution, surrender or modification of any property, leases, rights-of-way, franchises, licenses, permits or easements disposed of, altered or modified pursuant to Section 5.1 and all monies deposited in connection therewith pursuant to Section 5.1;

and said Supplemental Indenture shall contain a grant, conveyance, transfer or mortgage subjecting the property referred to in the preceding clauses of this paragraph to the lien of this Indenture.

C. No such conveyance or transfer of the Trust Estate substantially as an entirety shall have the effect of releasing the Person named as “the Company” in the first paragraph of this instrument or any successor Person which shall have become such in the manner prescribed in this Article from its liability as obligor and maker on any of the Obligations, unless such conveyance or transfer is followed by the complete liquidation of such Person or successor Person and substantially all its assets immediately following such conveyance or transfer are the Stock or other securities of such successor Person received in such conveyance or transfer.

ARTICLE XII

SUPPLEMENTAL INDENTURES

Section 12.1 Supplemental Indentures Without Consent of Holders.

Without the consent of the Holders of any Obligations, the Company, when authorized by a Board Resolution, and the Trustee, at any time and from time to time, may enter into one or more Supplemental Indentures, in form satisfactory to the Trustee, for any of the following purposes:

A. to correct or amplify the description of any property at any time subject to the lien of this Indenture, or better to assure, convey and confirm unto the Trustee any property subject or required to be subjected to the lien of this Indenture, or to subject additional property to the lien of this Indenture; or

B. to add to the conditions, limitations and restrictions on the authorized amount, terms or purposes of issue, authentication and delivery of Obligations or of any series of Obligations, as herein set forth, additional conditions, limitations and restrictions thereafter to be observed; or

C. to create any series of Obligations and make such other provisions as provided in Section 3.3; or

D. to modify or eliminate any of the terms of this Indenture; **PROVIDED, HOWEVER,** that

(1) in the event any such modification or elimination made in such Supplemental Indenture would adversely affect or diminish the rights of the Holders of any Obligations then Outstanding against the Company or its property, it shall expressly be stated in such Supplemental Indenture that any such modifications or eliminations shall become effective only when such Obligations are no longer Outstanding; and

(2) the Trustee may, in its discretion, decline to enter into any such Supplemental Indenture which, in its opinion, may not afford adequate protection to the Trustee when the same becomes operative; or

E. to evidence the succession of another corporation to the Company and the assumption by any such successor of the covenants of the Company herein and in the Obligations contained; or

F. to evidence the appointment of any successor trustee or separate trustee or trustees or co-trustee or co-trustees hereunder, and to define the rights, powers, duties and obligations conferred upon any such separate trustee or trustees or co-trustee or co-trustees; or

G. to add to the covenants of the Company or the Events of Default for the benefit of the Holders of all or any series of Obligations or to surrender any right or power herein conferred upon the Company; or

H. to cure any ambiguity, to correct or supplement any provision herein which may be inconsistent with any other provision herein or to make any other provisions, with respect to matters or questions arising under this Indenture, which shall not be inconsistent with the provisions of this Indenture, **PROVIDED** such action shall not, in the opinion of the Company, as evidenced by an Officers' Certificate delivered to the Trustee, adversely affect the interests of the Holders of the Obligations in any material respect; or

I. to modify, eliminate or add to the provisions of this Indenture to such extent as shall be necessary to effect the qualification of this Indenture under the TIA or under any similar federal statute hereafter enacted, to add to this Indenture such other provisions as may be expressly permitted by the TIA and to modify, eliminate or add to the provisions of this Indenture to the extent that any such provisions relating to requirements under the TIA have been modified or eliminated in the TIA after the date of this instrument, **EXCLUDING, HOWEVER,** the provisions referred to in Section 316(a)(2) of the TIA as in effect at the date as of which this instrument was executed or any corresponding provision in any similar federal statute hereafter enacted; or

J. to add or change any of the provisions of this Indenture to such extent as shall be necessary to permit or facilitate the issuance of Obligations (i) in bearer form, registrable or not registrable as to principal and with or without interest coupons or (ii) in book-entry form; or

K. to increase the limit on the maximum amount of Additional Obligations which may be authenticated and delivery and Outstanding under this Indenture;

L. to make any change in the Indenture that, in the reasonable judgment of the Trustee, will not materially and adversely affect the rights or interests of any of the Holders. For purposes of this paragraph of this Section, any Supplemental Indenture will be presumed not to materially and adversely affect the rights or interests of any of the Holders if (1) this Indenture, as supplemented and amended by such Supplemental Indenture, secures equally and ratably the payment of principal of (and premium, if any) and interest on the Outstanding Secured Obligations which are to remain Outstanding and (2) subject to the last sentence of this paragraph, the Company shall furnish to the Trustee written evidence, from (i) the nationally recognized statistical rating organization or organizations then rating the Obligations (or other obligations primarily secured by Outstanding Secured Obligations) or (ii) if there are more than two (2) such organizations, at least two (2) of such organizations, that its ratings of the Outstanding Secured Obligations (or other obligations primarily secured by Outstanding Secured Obligations) that are not subject to Credit Enhancement will not be withdrawn or reduced as a result of the changes in the Indenture effected by such Supplemental Indenture; **PROVIDED, HOWEVER,** that the failure to qualify for the presumption set forth in this sentence shall not create any presumption to the contrary or be used to question the judgment of the Trustee and **PROVIDED, FURTHER,** that the provisions of this paragraph may not be used to amend or modify the items listed in paragraphs A through F of Section 12.2 hereof in any way that is inconsistent with the provisions of such Section 12.2. The Trustee may rely on the written evidence of the nationally recognized statistical rating organization or organizations then rating the Obligations (or other obligations primarily secured by Outstanding Secured Obligations) with respect to credit matters relating to the Company to the extent that it deems such reliance to be appropriate.

Section 12.2 Supplemental Indentures With Consent of Holders.

With the consent of the Holders of not less than a majority in principal amount of the Obligations of all series then Outstanding affected by such Supplemental Indenture, by Act of such Holders delivered to the Company and the Trustee, the Company, when authorized by a Board Resolution, and the Trustee may enter into a Supplemental Indenture for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Indenture or of modifying in any manner the rights of the Holders of the Obligations under this Indenture; **PROVIDED, HOWEVER**, that no such Supplemental Indenture shall, without the consent of the Holder of each Outstanding Obligation affected thereby,

A. change the Stated Maturity of the principal of, or any installment of interest on, any Obligation, or reduce the principal amount thereof or the interest thereon or any premium payable upon the redemption thereof, or change any Place of Payment where, or the coin or currency in which, any Obligation, or the interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date); or

B. reduce the percentage in principal amount of the Outstanding Obligations, the consent of whose Holders is required for any such Supplemental Indenture, or the consent of whose Holders is required for any waiver provided for in this Indenture of compliance with certain provisions of this Indenture or certain defaults hereunder and their consequences; or

C. modify or alter the provisions of the proviso to the definition of the term “Outstanding” or “Outstanding Secured Obligations”; or

D. modify any of the provisions of this Section, Section 8.12 or Section 8.17, except to increase any percentage provided thereby or to provide that certain other provisions of this Indenture cannot be modified or waived without the consent of the Holder of each Outstanding Obligation affected thereby; or

E. permit the creation of any lien (other than as permitted in this Indenture) ranking prior to or on a parity with the lien of this Indenture with respect to all or substantially all of the Trust Estate; or

F. modify, in the case of Obligations of any series for which a mandatory sinking fund is provided, any of the provisions of this Indenture in such manner as to affect the rights of the Holders of such Obligations to the benefits of such sinking fund.

The Trustee may in its discretion determine whether or not any Obligation would be affected by any Supplemental Indenture and any such determination shall be conclusive upon the Holder of all Obligations, whether theretofore or thereafter authenticated and delivered hereunder, and the Trustee shall have no liability to any Holder of any Obligation for any such determination made in good faith.

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed Supplemental Indenture, but it shall be sufficient if such Act shall approve the substance thereof.

Section 12.3 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trust created by this Indenture, the Trustee shall be entitled to receive, and, subject to Section 9.1, shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such Supplemental Indenture is authorized or permitted by this Indenture. The Trustee may, but shall not, except to the extent required in the case of a Supplemental Indenture entered into under Section 12.1I, be obligated to, enter into any such Supplemental Indenture which adversely affects the Trustee's own rights, duties or immunities under this Indenture.

Section 12.4 Effect of Supplemental Indentures.

Upon the execution of any Supplemental Indenture under this Article, this Indenture shall be modified in accordance therewith and such Supplemental Indenture shall form a part of this Indenture for all purposes; and every Holder of Obligations theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

Section 12.5 Conformity with Trust Indenture Act.

After qualification of this Indenture under the TIA, every Supplemental Indenture executed pursuant to this Article thereafter shall conform to the requirements of the TIA as then in effect.

Section 12.6 Reference in Obligations to Supplemental Indentures.

Obligations authenticated and delivered after the execution of any Supplemental Indenture pursuant to this Article may, and if required by the Trustee or the Company shall, bear a notation in form approved by the Trustee as to any matter provided for in such Supplemental Indenture. If the Company shall so determine, new Obligations so modified as to conform, in the opinion of the Trustee and the Board of Directors, to any such Supplemental Indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Obligations.

ARTICLE XIII

COVENANTS

Section 13.1 Payment of Principal, Premium and Interest.

The Company will duly and punctually pay the principal of (and premium, if any) and interest on the Obligations in accordance with the terms of the Obligations and this Indenture.

Section 13.2 Maintenance of Office or Agency.

The Company will establish one or more Places of Payment where Obligations may be presented or surrendered for payment, where Obligations entitled to be registered, transferred, exchanged or converted may be presented or surrendered for registration, transfer, exchange or

conversion and where notices and demands to or upon the Company in respect of the Obligations and this Indenture may be served. The Company will give prompt written notice to the Trustee of the location, and of any change in the location, of any such office or agency. If at any time the Company shall fail to maintain such an office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the principal corporate trust office of the Trustee, and the Company hereby appoints the Trustee its agent to receive all such presentations, surrenders, notices and demands.

Section 13.3 Money for Obligation Payments to be Held in Trust; Repayment of Unclaimed Money.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of (and premium, if any) or interest on any of the Obligations, segregate and hold in trust for the benefit of the Holders of such Obligations a sum sufficient to pay the principal (and premium, if any) or interest so becoming due until such sums shall be paid to such Holders or otherwise disposed of as herein provided, and the Company will promptly notify the Trustee in writing of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of (and premium, if any) or interest on any Obligations, deposit with a Paying Agent a sum sufficient to pay the principal (and premium, if any) or interest so becoming due, such sum to be held in trust for the benefit of the Holders of such Obligations entitled to such principal (and premium, if any) or interest, and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee in writing of its action or failure so to act.

Moneys so segregated or deposited and held in trust shall not be a part of the Trust Estate and shall not be deemed Trust Moneys but shall constitute a separate trust fund for the benefit of the Persons entitled to such principal, premium or interest. Except in the case of moneys so segregated by the Company when acting as its own Paying Agent, moneys held in trust by the Trustee or any other Paying Agent for the payment of the principal (or premium, if any) or interest on the Obligations need not be segregated from other funds, except to the extent required by law.

The Company will cause each Paying Agent other than the Company and Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section, that such Paying Agent will

- A. hold all sums held by it for the payment of principal of (and premium, if any) or interest on Obligations in trust for the benefit of the Holders of such Obligations until such sums shall be paid to the Holders or otherwise disposed of as herein provided;
- B. give the Trustee notice of any default by the Company (or any other obligor upon the Obligations) in the making of any payment of principal (and premium, if any) or interest; and
- C. at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to

pay, to the Trustee all money held in trust by the Company or such Paying Agent, such money to be held by the Trustee upon the same trusts as those upon which such money was held by the Company or such Paying Agent; and, upon such payment by the Company, the Company shall be discharged from such trust, and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent or held by the Company in trust for the payment of the principal of (and premium, if any) or interest on any Obligation and remaining unclaimed for two (2) years after such principal (and premium, if any) or interest has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Obligation shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; PROVIDED, HOWEVER, that the Trustee or such Paying Agent, before being required to make any such payment to the Company, shall at the expense of the Company cause to be published once, in a newspaper of general circulation in each Place of Payment of such Obligation, notice that such money remains unclaimed and that, after a date specified therein, which shall not be less than thirty (30) days from the date of such publication, any unclaimed balance of such money then remaining will be paid to the Company.

Section 13.4 Ownership of Property.

At the time of the execution and delivery of this instrument, the Company owns and holds the real property specifically described in Subdivision A of Granting Clause First in fee (or such other estate as may be specified) and owns and holds the other interests in real property specifically described in Granting Clause First, subject to no mortgage, lien, charge or encumbrance other than Permitted Exceptions, and has full power and lawful authority to grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm such real property and interests in real property in the manner and form aforesaid.

The Company lawfully owns and is possessed of the personal property described in Granting Clauses First and Second (other than property of the Company acquired after the time of the execution and delivery of this Indenture), subject to no mortgage, lien, charge or encumbrance other than Permitted Exceptions, and has full power and lawful authority to grant, bargain, sell, alienate, remise, release, convey, assign, transfer, mortgage, hypothecate, pledge, set over and confirm such personal property in the manner and form aforesaid.

The Company hereby does and will forever, at all times warrant and defend its ownership, as set forth above, of the real property and interests in real property described in Granting Clauses First and Second against all claims and demands of all Persons whomsoever, except Permitted Exceptions.

Section 13.5 After-Acquired Property; Further Assurances; Recording.

All property of every kind, other than Excepted Property, acquired by the Company after the date hereof shall, immediately upon the acquisition thereof by the Company, and without any

further mortgage, conveyance or assignment, become subject to the lien of this Indenture; **SUBJECT, HOWEVER,** to the exceptions permitted by Section 11.2B. Nevertheless, the Company will do, execute, acknowledge and deliver all and every such further acts, conveyances, mortgages, financing statements and assurances as the Trustee shall require to subject such property to the lien of this Indenture.

The Company will cause this Indenture and all Supplemental Indentures and other instruments of further assurance, including all financing statements and continuation statements covering security interests in personal property, and all mortgages securing purchase money obligations delivered to the Trustee or to the trustee, mortgagee or other holder of a Prior Lien under Section 5.2 to be promptly recorded, registered and filed, and at all times to be kept recorded, registered and filed, and will execute and file such financing statements or cause to be issued and filed such continuation statements, all in such manner and in such places as may be required by law fully to preserve and protect the rights of the Holders and the Trustee to the extent provided in this Indenture to all property constituting part of the Trust Estate. Furthermore, the Company will use its best efforts to cause all contracts of the type and duration set forth in Subparagraph C of Granting Clause First and acquired by the company after the date hereof to become subject to the lien of this Indenture. The Company will furnish to the Trustee:

A. promptly after the execution and delivery of each Supplemental Indenture or other instrument of further assurance, an Opinion of Counsel stating that, in the opinion of such Counsel, this Indenture and such Supplemental Indenture and other instruments of further assurance have been properly recorded, registered and filed, or have been received for recording, registration or filing, to make effective the lien of this Indenture to the extent intended by this Indenture and stating that all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the rights of the Holders and the Trustee hereunder, or stating that, in the opinion of such Counsel, no such action is necessary to make such lien effective; and

B. within one hundred-twenty (120) days after January 1 in each year beginning with the year ~~2009~~2010, an Opinion of Counsel, dated as of such date, either stating that, in the opinion of such Counsel, during the preceding calendar year, such action has been taken with respect to the recording, registering, filing, re-recording, re-registering and re-filing of this instrument and of all Supplemental Indentures, financing statements, continuation statements or other instruments of further assurance as is necessary to maintain the lien of this Indenture (including the lien on any property acquired by the Company after the execution and delivery of this instrument and owned by the Company at the end of the preceding calendar year) and stating that during the preceding calendar year, all financing statements and continuation statements have been executed and filed that are necessary fully to preserve and protect the rights of the Holders and the Trustee hereunder, or stating that, in the opinion of such Counsel, during the preceding calendar year, no such action was necessary to maintain such lien.

Upon the cancellation and discharge of any Prior Lien, the Company will cause all cash, obligations and securities then held by the trustee, mortgagee or other holder of such Prior Lien, which were received by such trustee, mortgagee or other holder on account of the release or the taking by eminent domain or the purchase by a public authority or the sale by virtue of a designation or order of a public authority or any other disposition of, or insurance on, the Trust

Estate, or any part thereof (including all proceeds of or substitutions for any thereof), to be paid to or deposited and pledged with the Trustee, such cash to be held and paid over or applied by the Trustee as provided in Article VI.

Section 13.6 Limitations on Liens; Payment of Taxes.

The Company will not create or incur or suffer or permit to be created or incurred or to exist any mortgage, lien, charge or encumbrance on or pledge of any of the Trust Estate prior to or upon a parity with the lien of this Indenture except Permitted Exceptions and except that:

A. The Company may create, incur or suffer to exist purchase money mortgages or other purchase money liens upon any real property acquired by the Company or acquire real property subject to mortgages and liens existing thereon at the date of acquisition, or acquire or agree to acquire and own personal property subject to or upon chattel mortgages, conditional sales agreements or other title retention agreements; **PROVIDED** that

(1) the principal amount of the indebtedness secured by each such mortgage, lien or agreement shall not exceed 80% of the Cost or Fair Value to the Company at the time of the acquisition thereof by the Company, whichever is less, as evidenced by an Officers' Certificate, of the property subject thereto, **PROVIDED** that if the property subject to such mortgage, lien or agreement is not necessary to the operations of the remaining portion of the System, the principal amount thereby secured may not exceed 100% of such Cost or Fair Value to the Company, whichever is less;

(2) the aggregate principal amount of all indebtedness of the Company at the time outstanding secured by such mortgages, liens and agreements (including extensions, renewals and replacements thereof, as provided by the paragraph B below, and also the indebtedness then being incurred) shall not exceed 15% of the aggregate principal amount of all Obligations then Outstanding; and

(3) each such mortgage, lien or agreement shall apply only to the property originally subject thereto, fixed improvements erected on any such real property or affixed to such personal property or equipment used in connection with such real or personal property, any contracts, licenses, permits and other property related solely to such real or personal property, and the proceeds thereof.

B. The Company may modify, extend, renew or replace any mortgage, lien or agreement permitted by paragraph A above upon the same property theretofore subject thereto, or modify, replace, renew or extend the indebtedness secured thereby, **PROVIDED** that in any such case the principal amount of such indebtedness so modified, replaced, extended or renewed shall not be increased above the limits described in paragraph A above.

The Company will pay or cause to be paid before they become delinquent all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon the Trust Estate or any part thereof or upon any income therefrom, and also (to the extent that such payment will not be contrary to any applicable laws) all taxes, assessments and other governmental charges lawfully levied, assessed or imposed upon the lien or interest of the Trustee or of the Holders in the Trust Estate, so that (to the extent aforesaid) the lien of this Indenture shall at all

times be wholly preserved at the cost of the Company and without expense to the Trustee or the Holders; **PROVIDED, HOWEVER**, that the Company shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall currently be contested in good faith by appropriate proceedings and the Company shall have established and shall maintain adequate reserves on its books for the payment of the same.

Section 13.7 Maintenance of Properties.

The Company will cause all its properties used or useful in the conduct of its business to be maintained and kept in good condition, repair and working order and supplied with all necessary equipment and will cause to be made all necessary repairs, renewals, replacements, betterments and improvements thereof, all as in the judgment of the Company may be necessary so that the business carried on in connection therewith may be properly and advantageously conducted at all times; **PROVIDED, HOWEVER**, that nothing in this Section shall prevent the Company from discontinuing the operation and maintenance of any of its properties if such discontinuance is, in the judgment of the Company, desirable in the conduct of its business and not disadvantageous in any material respect to the Holders.

The Company will promptly classify, and record on its books, as retired, all property that has permanently ceased to be used or useful in the business of the Company.

Section 13.8 To Insure.

The Company will at all times keep all its property of an insurable nature and of the character usually insured by companies operating similar properties, insured in amounts customarily carried, and against loss or damage from such causes as are customarily insured against, by similar companies.

All such insurance shall be effected with responsible insurance carriers. All policies or other contracts for such insurance upon any part of the Trust Estate shall provide that the proceeds of such insurance (except in the case of any particular casualty resulting in damage or destruction not exceeding \$2,000,000 in the aggregate) shall be payable, subject to the requirements of any Prior Lien, to the Trustee as its interest may appear (by means of a standard mortgagee clause or other similar clause acceptable to the Trustee, without contribution). Each policy or other contract for such insurance, or such mortgagee clause, shall contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for the benefit of the Trustee for at least thirty (30) days after written notice to the Trustee of cancellation. As soon as practicable after the execution of this Indenture, and within ninety (90) days after the close of each calendar year thereafter, and at any time upon the request of the Trustee, the Company will file with the Trustee an Officers' Certificate containing a detailed list of the insurance in force upon the Trust Estate on a date therein specified (which date shall be within thirty (30) days of the filing of such Certificate), including the names of the insurers with which the policies and other contracts of insurance on the Trust Estate are carried, the numbers, amounts and expiration dates of such policies and other contracts and the property and hazards covered thereby, and stating that the insurance so listed complies with this Section, and the Trustee may conclusively rely on such Certificate.

Any appraisal or adjustment or any loss or damage of or to any part of the Trust Estate and any settlement in respect thereof which may be agreed upon between the Company and any insurer, as evidenced by an Officers' Certificate, shall be accepted by the Trustee.

All proceeds of insurance received by the Trustee shall be held and paid over or applied by the Trustee as provided in Article VI.

All proceeds of any insurance on any part of the Trust Estate not payable to the Trustee or the trustee, mortgagee or other holder of a Prior Lien shall be applied by the Company to the repair, rebuilding or replacement of the property destroyed or damaged or shall be deposited with the Trustee to be held and paid over or applied by it as provided in Article VI.

Section 13.9 Corporate Existence.

Subject to Article XI, the Company will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence, rights (charter and statutory) and franchises; **PROVIDED, HOWEVER**, that the Company shall not be required to preserve any right or franchise if the Board of Directors shall determine that the preservation thereof is no longer desirable in the conduct of the business of the Company and that the loss thereof is not disadvantageous in any material respect to the Holders.

Section 13.10 To Keep Books; Inspection by Trustee.

The Company will keep proper books of record and account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the Obligations and the plant, properties, business and affairs of the Company in accordance with Accounting Requirements. The Company will, upon reasonable written notice by the Trustee to the Company and at the expense of the Company, permit the Trustee by its representatives to inspect the plants and properties, books of account, records, reports and other papers of the Company, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection, and the Company will furnish to the Trustee any and all information as the Trustee may reasonably request, with respect to the performance by the Company of its covenants in this Indenture; **PROVIDED, HOWEVER**, the Company shall not be required to make available any information supplied to it by a third party which is subject to a confidentiality agreement with such third party except to the extent allowed by, and subject to the terms of such confidentiality agreement.

Section 13.11 Use of Trust Moneys and Advances by Trustee.

If the Company shall fail to perform any of its covenants in this Indenture, the Trustee may (but shall not be obligated to) at any time and from time to time, after notice to the Company, use and apply any Trust Moneys held by it under Article VI, or make advances, to effect performance of any such covenant on behalf of the Company; and all moneys so used or advanced by the Trustee, together with interest at the lesser of (i) 10% per annum or (ii) the maximum rate permitted by law, shall be repaid by the Company upon demand and such advances shall be secured under this Indenture prior to the Obligations. For the repayment of all such advances the Trustee shall have the right to use and apply any Trust Moneys at any time held by it under Article VI but no such use of Trust Moneys or advance shall relieve the Company from any default

hereunder. Nothing contained herein shall be deemed to obligate the Trustee to advance its own monies for any purpose.

Section 13.12 Statement as to Compliance.

The Company will deliver to the Trustee, within one hundred and twenty (120) days after the end of each calendar year, beginning with the year 2010, a written statement signed by the principal executive officer and by the principal financial officer or principal accounting officer of the Company stating that a review of the Company's activities during the preceding calendar year has been made under their supervision and that the Company has fulfilled its obligations hereunder in all material respects during such calendar year.

Promptly after any Officer of the Company may reasonably be deemed to have knowledge of a default hereunder, the Company will deliver to the Trustee a written notice specifying the nature and period of existence thereof and the action the Company is taking and proposes to take with respect thereto.

Section 13.13 Waiver of Certain Covenants.

The Company may omit in any particular instance to comply with any covenant or condition set forth in this Article except Sections 13.1, 13.2, 13.3, 13.4, 13.5, 13.9, 13.10, 13.11 and the first sentence of Section 13.14 if before or after the time for such compliance the Holders of at least a majority in principal amount of all Obligations then Outstanding, shall, by Act of such Holders, either waive such compliance in such instance or generally waive compliance with such covenant or condition, but no such waiver shall extend to or affect such covenant or condition except to the extent so expressly waived and, until such waiver shall become effective, the obligations of the Company and the duties of the Trustee in respect of any such covenant or condition shall remain in full force and effect.

Section 13.14 Rate Covenant.

The Company shall establish and collect rates, rents, charges, fees and other compensation (collectively, "**Rates**") that, together with other moneys available to the Company, produce moneys sufficient to enable the Company to comply with all its covenants under this Indenture. Subject to any necessary regulatory approval or determination and the approval of the RUS, if required, the Company also shall establish and collect Rates that, together with other revenues available to the Company, are reasonably expected to yield a Margins for Interest Ratio for each fiscal year of the Company equal to at least 1.10 for such period. Promptly upon any material change in the circumstances which were contemplated at the time such Rates were most recently reviewed, but not less frequently than once every twelve (12) months, the Company shall review the Rates so established and shall promptly establish or revise such Rates as necessary to comply with the foregoing requirements; subject in the case of the foregoing Margins for Interest requirement to any necessary regulatory approval or determination and the approval of the RUS, if required. The Company will not furnish or supply or cause to be furnished or supplied any use, output, capacity or service of the System with respect to which a charge is regularly or customarily made, free of charge to any Person, and the Company will use commercially reasonable efforts to

enforce the payment of any and all accounts owing to the Company with respect to the use, output, capacity or service of the System.

Section 13.15 Distributions to Members.

The Company shall not directly or indirectly declare or pay any dividend or make any payments of, distributions of, or retirements of, patronage capital to its members (each a “**Distribution**”) if, at the time thereof or after giving effect thereto, (i) an Event of Default shall exist, or (ii) the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) as of the end of the Company’s most recent fiscal quarter would be less than 20% of the Company’s total long-term debt and equities (determined in accordance with Accounting Requirements) at such time; or (iii) the aggregate amount expended for all Distributions on or after the date on which the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) first reached 20% of the Company’s long-term debt and equities (determined in accordance with Accounting Requirements) shall exceed 35% of the aggregate net margins (whether or not such net margins have since been allocated to members) of the Company earned after such date (subtracting, in the case of any deficit, 100% of such deficit). Notwithstanding the foregoing and so long as no Event of Default shall exist, the Company may declare and make Distributions at any time if, after giving effect thereto, the Company’s aggregate margins and equities (determined in accordance with Accounting Requirements) as of the end of the Company’s most recent fiscal quarter would have been not less than 30% of the Company’s total long-term debt and equities (determined in accordance with Accounting Requirements) as of such date..

Section 13.16 Limitation on Certain Cash Investments.

The Company shall direct the Trustee to invest at least 75% of each of (i) Trust Moneys and (ii) Deposited Cash (as determined by the Company), in (a) Defeasance Securities, (b) securities issued by any agency or instrumentality of the United States of America or any corporation created pursuant to any act of the Congress of the United States, (c) commercial paper rated in either of the two highest rating categories by a national credit rating agency, (d) demand or time deposits, certificates of deposit and bankers’ acceptances issued or accepted by any bank or trust company having capital surplus and undivided profits aggregating at least \$50,000,000 and whose long-term debt is rated in any of the three highest rating categories by a national credit rating agency, (e) any non-convertible debt securities rated in any of the three highest rating categories by a national credit rating agency, (f) repurchase agreements that are secured by a perfected security interest in securities listed in clauses (a) or (b) above entered into with a government bond dealer recognized as a primary dealer by the Federal Reserve Bank of New York or any bank described in clause (d) above, or (g) any short-term institutional investment fund or account which invests solely in any of the foregoing obligations.

ARTICLE XIV

REDEMPTION OF OBLIGATIONS; SINKING FUNDS

Section 14.1 Applicability of Sections 14.1 Through 14.7.

Obligations which are by their express terms redeemable before their Stated Maturity shall be redeemable in accordance with their terms and (except as otherwise provided with respect to the Obligations of any particular series by the provisions of a Supplemental Indenture creating such series in accordance with Sections 14.1 through 14.7, inclusive. Except for the provisions of Section 14.11, the provisions of this Article do not apply to Obligations of which either RUS or CFC is the Holder.

Section 14.2 Election to Redeem; Notice to Trustee.

The election of the Company to redeem any Obligations shall be evidenced by a Board Resolution. In case of any redemption at the election of the Company of less than all the Outstanding Obligations of any series, the Company shall, at least thirty (30) days prior to the Redemption Date fixed by the Company (unless a shorter notice shall be satisfactory to the Trustee) notify the Trustee of such Redemption Date and of the principal amount of Obligations of such series to be redeemed and of the numbers of any Outstanding Obligations of such series then owned by the Company.

Section 14.3 Selection by Trustee of Obligations to be Redeemed.

Unless otherwise provided in a Supplemental Indenture authorizing a particular series of Obligations, if less than all the Outstanding Obligations of any series or maturity within a series are to be redeemed, the particular Obligations to be redeemed shall be selected not more than thirty (30) days prior to the Redemption Date by the Trustee from the Outstanding Obligations of such series or maturity within a series which have not previously been called for redemption by prorating, as nearly as may be, the principal amount of Obligations of such series or maturity within a series to be redeemed among the Holders of such Obligations in proportion to the aggregate principal amount of such Obligations registered in their respective names; **EXCEPT** that, if there shall have been previously filed with the Trustee an Act of all the Holders of such Obligations satisfactory to the Trustee specifying the method of selecting the Obligations to be redeemed, such selection shall be made by the Trustee in accordance with the terms of such Act.

In any proration pursuant to this Section, the Trustee shall make such adjustments, reallocations and eliminations as it shall deem proper to the end that the principal amount of Obligations of such series or maturity within a series so prorated shall be equal to the greater of \$1,000 and the smallest authorized denomination of the Obligations of such series, or a multiple thereof, by increasing or decreasing or eliminating the amount which would be allocable to any Holder on the basis of exact proportion by an amount not exceeding such prorated minimum.

The Trustee in its discretion may determine the particular Obligations (if there is more than one) registered in the name of any Holder which are to be redeemed, in whole or in part.

The Trustee shall promptly notify the Company in writing of the Obligations selected for redemption and, in the case of any Obligation selected for partial redemption, the principal amount thereof to be redeemed.

For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to the redemption of Obligations shall relate, in the case of any Obligation redeemed or to be redeemed only in part, to the portion of the principal of such Obligation which has been or is to be redeemed.

Section 14.4 Notice of Redemption.

Notice of redemption shall be given by first-class mail, postage prepaid, mailed not less than twenty (20) nor more than sixty (60) days prior to the Redemption Date, to each Holder of Obligations of such series to be redeemed, at his address appearing in the Obligation Register.

All notices of redemption shall state:

- A. the CUSIP number (if any) of all Obligations to be redeemed,
- B. the Redemption Date,
- C. the Redemption Price,
- D. the principal amount of Obligations of each series to be redeemed, and, if less than all Outstanding Obligations of a series are to be redeemed, the identification (and, in the case of partial redemption, the respective principal amounts) of the Obligations of such series to be redeemed,
- E. that on the Redemption Date the Redemption Price of each of the Obligations to be redeemed will become due and payable and that the interest thereon shall cease to accrue from and after said Redemption Date,
- F. the place or places where the Obligations of each series to be redeemed are to be surrendered for payment of the Redemption Price, which shall be the office or agency of the Company in each Place of Payment for such series,
- G. if it be the case, that such Obligations are to be redeemed by the application of certain specified Trust Moneys, and
- H. if it be the case, that such redemption is to satisfy sinking fund requirements.

Notice of redemption of Obligations to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company.

Section 14.5 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 13.3) an amount of money sufficient to pay the Redemption Price of all the Obligations which are to be redeemed on that date. Such money shall be held in trust for the benefit of the Persons entitled to such Redemption Price and shall not be deemed to be part of the Trust Estate or Trust Moneys.

Subject to the requirements of any Supplemental Indenture, the Company may determine what sinking fund requirements (if any) to apply redeemed Obligations against.

Section 14.6 Obligations Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Obligations so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price therein specified and from and after such date (unless the Company shall default in the payment of the Redemption Price) such Obligations shall cease to bear interest. Upon surrender of any such Obligation for redemption in accordance with said notice, such Obligation shall be paid by the Company at the Redemption Price. Installments of interest with a Stated Maturity on or prior to the Redemption Date shall be payable to the Holders of the Obligations registered as such on the relevant Record Dates according to the terms of such Obligations and the provisions of Section 3.7.

If any Obligation called for redemption shall not be so paid upon surrender thereof for redemption or as otherwise provided under Section 14.7 in lieu of surrender, the principal (and premium, if any) shall, until paid, bear interest from the Redemption Date at the rate prescribed therefor in the Obligation.

Section 14.7 Obligations Redeemed in Part.

Unless otherwise provided in any Supplemental Indenture, any Obligation which is to be redeemed only in part shall be surrendered at a Place of Payment therefor (with, if the Company or the Trustee so requires, due endorsement by, or a written instrument of transfer in form satisfactory to the Company and the Trustee duly executed by, the Holder thereof or his attorney duly authorized in writing) and the Company shall execute and the Trustee shall authenticate and deliver to the Holder of such Obligation, without service charge, a new Obligation or Obligations of the same series and maturity of any authorized denomination or denominations as requested by such Holder in aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Obligation so surrendered.

In lieu of surrender under the preceding paragraph, payment of the Redemption Price of a portion of any Obligation held in the Book-Entry System may be made directly to the Holder thereof without surrender thereof if there shall have been filed with the Trustee either (i) a written agreement between the Company and such Holder and, if such Holder is a nominee, the Person for whom such Holder is a nominee, that payment shall be so made and that such Holder will not sell, transfer or otherwise dispose of such Obligation unless prior to delivery thereof such Holder shall present such Obligation to the Trustee for notation thereon of the portion of the principal thereof redeemed or shall surrender such Obligation in exchange for a new Obligation or Obligations for

the unredeemed balance of the principal of the surrendered Obligation or (ii) a certificate of the Company that such an agreement has been entered into and remains in force.

Section 14.8 Applicability of Sections 14.8 Through 14.10.

The provisions of Sections 14.8 through 14.10, inclusive, shall be applicable to any sinking fund for the retirement of Obligations except as otherwise specified as contemplated by Section 3.3 for Obligations of such series.

The minimum amount of any sinking fund payment provided for by the terms of Obligations of any series is herein referred to as a “mandatory sinking fund payment,” and any payment in excess of such minimum amount provided for by the terms of Obligations of any series is herein referred to as an “optional sinking fund payment.” If provided for by the terms of Obligations of any series, the cash amount of any sinking fund payment may be subject to reduction as provided in Section 14.9. Each sinking fund payment shall be applied to the redemption of Obligations of any series as provided for by the terms of Obligations of such series.

Section 14.9 Satisfaction of Sinking Fund Payments with Obligations.

The Company (1) may deliver Outstanding Obligations of a series (other than any previously called for redemption) and (2) may apply, as a credit, Obligations of a series which have been redeemed either at the election of the Company pursuant to the terms of such Obligations or through the application of permitted optional sinking fund payments pursuant to the terms of such Obligations, in each case in satisfaction of all or any part of any sinking fund payment with respect to the Obligations of such series required to be made pursuant to the terms of such Obligations as provided for by the terms of such series; **PROVIDED** that such Obligations have not been previously so credited. Such Obligations shall be received and credited for such purpose by the Trustee at the Redemption Price specified in such Obligations for redemption through operation of the sinking fund and the amount of such sinking fund payment shall be reduced accordingly.

Section 14.10 Redemption of Obligations for Sinking Fund.

Not less than sixty (60) days prior to each sinking fund payment date for any series of Obligations, the Company will deliver to the Trustee an Officers' Certificate specifying the amount of the next ensuing sinking fund payment for that series pursuant to the terms of that series, the portion thereof, if any, which is to be satisfied by payment of cash and the portion thereof, if any, which is to be satisfied by delivering and crediting Obligations of that series pursuant to Section 14.9 and will also deliver to the Trustee any Obligations to be so delivered. Not less than thirty (30) days before each such sinking fund payment date the Trustee shall select the Obligations to be redeemed upon such sinking fund payment date in the manner specified in Section 14.3 and cause notice of the redemption thereof to be given in the name of and at the expense of the Company in the manner provided in Section 14.4. Such notice having been duly given, the redemption of such Obligations shall be made upon the terms and in the manner stated in Sections 14.6 and 14.7.

Section 14.11 Prepayment of Certain Obligations.

Any Existing Obligation or Additional Obligation as to which RUS is the Holder shall be redeemable or prepayable in accordance with the provisions of such Obligation or any applicable existing or future law. Any Existing Obligation or Additional Obligation as to which CFC is the Holder shall be redeemable or prepayable in accordance with the provisions of such Obligation.

ARTICLE XV

CONTROL OF PLEDGED SECURITIES

Section 15.1 Pledged Securities Deposited with Trustee.

Any Stock and certificates representing the same and any obligations and indebtedness and evidences thereof and any other securities which are at the time deposited with the Trustee or required to be deposited and pledged with the Trustee are herein sometimes collectively called the “**Pledged Securities.**”

As and when any Pledged Securities shall come into the possession of the Company or under its control, the Company shall forthwith deposit and pledge the same with the Trustee, together with such proper instruments of assignment and transfer as the Trustee may reasonably require, which shall include express authority to the Trustee to vote any Stock included therein to the extent herein provided or permitted and to cause such authority to be recorded in the entry of transfer of such Stock on the books of the entity issuing the same.

The Trustee shall not be obliged at any time to accept any Pledged Securities or to cause or to permit a transfer thereof to be made to it, if, in the opinion of the Trustee, such action would subject it to the risk of any liability or expense, unless the Trustee shall be indemnified to its satisfaction for so doing.

The Trustee shall not be under any duty to examine into or pass upon the validity or genuineness of any of the Pledged Securities. The Trustee shall be entitled to assume that any Pledged Securities are genuine and valid and what they purport to be and that any endorsements or assignments thereof are genuine and valid.

Section 15.2 Form of Holding.

The Trustee may hold any Pledged Securities in bearer form or in the name of the Trustee or any nominee or nominees of the Trustee or (unless an Event of Default exists or the Holders of a majority in principal amount of the Obligations then Outstanding otherwise direct) in the name of the Company or any nominee or nominees of the Company, endorsed or assigned in blank or in favor of the Trustee. The Trustee may deliver any of the Pledged Securities to the Company for a period of not more than twenty-one (21) days or to the issuer thereof for the purpose of making exchanges or registrations of transfers or for such other purposes in furtherance of this trust as the Trustee may deem advisable.

Section 15.3 Right of Trustee to Preserve Issuers; Directors' Qualifying Shares.

The Trustee may do whatever in its judgment may be necessary for the purpose of preserving or extending the legal existence of any entity whose Stock are included in the Pledged Securities, but (subject to Section 9.1) it shall be under no duty to take any action in respect thereof. Upon Company Request stating that the Company has no shares for the purpose under its control other than shares held hereunder, the Trustee shall transfer or permit the Company to transfer as many shares of stock as may be necessary to qualify the requisite number of persons to act as directors of or in any other official relation to the corporation issuing such shares; **PROVIDED, HOWEVER,** that no such transfer of the stock of any Pledged Subsidiary shall be made which would change the status of the issuing corporation as a Pledged Subsidiary. In every such case the Trustee may make such arrangements as it shall deem necessary for the protection of the trust hereunder in respect of the shares so transferred. While such shares remain so transferred they shall not be deemed to be Pledged Securities, but when such shares are no longer needed for such qualification purposes they shall immediately be redeposited and repledged and thereupon again become Pledged Securities.

Section 15.4 Income Before Event of Default.

Unless an Event of Default exists, the Company from time to time shall be entitled to receive and collect for its own use all interest paid on any Pledged Security (other than any such interest which shall have been collected or paid out of the proceeds of any sale or condemnation or expropriation of any property covered by a mortgage or other lien securing such Pledged Security) and all dividends on any Pledged Security which are paid in cash out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder. The Trustee from time to time shall execute and deliver upon Company Request suitable orders in favor of the Company or its nominee for the payment of such interest and cash dividends and shall deliver upon Company Request any and all coupons held by the Trustee representing such interest as the date of the maturity thereof approaches. The Trustee shall likewise pay over all sums which are received or collected by it as such interest or cash dividends. Until actually paid, all rights to such interest or cash dividends shall remain subject to the lien hereof.

The Trustee shall be entitled (subject to Section 9.1) to assume that any cash dividend received by it on any Pledged Security is paid out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder and that any interest has not been collected or paid out of the proceeds of any such sale or condemnation or expropriation, unless and until notified in writing to the contrary by any Holder or the Company or the person making such payment, in which event the Trustee may (subject to Section 9.1) accept an Officers' Certificate stating any pertinent facts in connection with any such dividend or interest as conclusive evidence of such facts.

Section 15.5 Income After Event of Default.

If an Event of Default exists, in addition to the other remedies herein provided, the Trustee shall collect and receive all interest and dividends on Pledged Securities and shall cancel and revoke all interest and dividend orders in favor of the Company or its nominee. All money so

received by the Trustee which, in the absence of an Event of Default, would be receivable by the Company under Section 15.4, shall be applied in accordance with Section 8.7.

In every such case, after all Events of Default have been cured, the right of the Company to receive and collect interest and dividends, and the duty of the Trustee with respect thereto, under Section 15.4, shall revive and continue; and the Trustee shall pay over upon Company Request any such interest or dividends received by it which, in the absence of an Event of Default, would be receivable by the Company under Section 15.4 and then remain unexpended in its hands.

Section 15.6 Principal and Other Payments.

In case any sum shall be paid on account of

- A. the principal of (or premium, if any, on) any Pledged Security, or
- B. any dividend upon any Pledged Security other than a cash dividend paid out of the net profits or earned surplus of the issuing corporation accrued since the date of deposit and pledge of such Pledged Security with the Trustee hereunder, or
- C. the liquidation or dissolution or reduction of capital of the corporation issuing any Pledged Security, or
- D. interest on any Pledged Security which shall have been collected or paid out of the proceeds of any sale or condemnation or expropriation of any property covered by a mortgage or other lien securing such Pledged Security,

or in case any other distribution (including stock dividends but excluding any dividend excluded by subsection B) shall be made in respect of any Pledged Security, such sum or other distribution shall be paid or delivered to the Trustee to be held as a part of the Trust Estate.

In case the Company or the Trustee shall receive rights to subscribe to additional securities in respect of any Pledged Securities, the Company may exercise or (subject to Section 15.8) sell such rights in its discretion, **PROVIDED, HOWEVER**, that (i) all securities acquired by exercise of such rights shall forthwith be deposited and pledged with the Trustee hereunder, (ii) all net proceeds from the sale of any such rights shall forthwith be paid to the Trustee, (iii) if the Company shall not have elected to exercise or sell such rights by the fifth (5th) business day prior to the expiration thereof, it shall give the Trustee notice thereof and the Trustee shall forthwith sell or, in the event that Section 15.8 is applicable, may exercise such rights in such manner as in its uncontrolled discretion it may deem advisable and (iv) if an Event of Default exists, the Trustee shall be entitled at any time in its discretion to exercise or sell such rights.

Section 15.7 Voting.

Unless an Event of Default exists, the Company shall have the right to vote and give consents with respect to all Pledged Securities and from time to time, in case any Pledged Securities have been transferred into the name of the Trustee or its nominee or nominees, the Trustee, upon Company Request, shall execute and deliver or cause to be executed and delivered to the Company or its nominee appropriate powers of attorney or proxies to vote such Pledged

Securities or to execute a waiver or consent with respect thereto, for such purpose or purposes as may be specified in such request; PROVIDED, HOWEVER, that such right of the Company shall not include (and every such power of attorney or proxy shall be limited, either generally or specifically, to provide in effect that the powers thereby conferred do not include) any power to vote for or to authorize or consent to any act or thing inconsistent with or in avoidance of the Company's obligations under this Indenture.

If an Event of Default exists, the Trustee may in its discretion, and if requested by the Holders of a majority in principal amount of the Obligations then Outstanding and provided with an indemnity reasonably satisfactory to it shall, revoke all such powers of attorney and proxies and the Trustee may in its discretion vote and exercise, or cause the nominee or nominees of the Trustee to vote and exercise, all the powers of an owner with respect to any Pledged Securities. In so voting and exercising the powers of an owner with respect to any Pledged Securities, the Trustee shall not be required to attend any meeting of security holders, but the Trustee may vote or act by power of attorney or proxy and such power of attorney or proxy may be granted to any person selected by the Trustee, including an Officer of the Company. The Trustee may so vote and exercise the powers of an owner with respect to any Pledged Securities for any purpose or purposes which the Trustee, in its discretion, shall deem advisable and in the interest of the Holders, whether or not such action may involve a change in the character of any Pledged Security or in the corporate identity or business of the issuer thereof or in the proportionate interest or voting power represented by such security. In every such case, after all Events of Default have been cured, the right of the Company to vote and give consents with respect to the Pledged Securities, and the duty of the Trustee to execute powers of attorney and proxies as hereinabove provided, shall revive and continue.

Section 15.8 Limitations on Issue of Voting Stock or Grant of Membership Interests of Pledged Subsidiaries.

The Company will not permit any Pledged Subsidiary to issue any additional shares of Voting Stock, other than stock dividends, unless simultaneously there shall be made effective provision that certificates for all such additional Voting Stock, forthwith upon the issue thereof, will be deposited and pledged with the Trustee; PROVIDED, HOWEVER, that, if the, holders of any stock of such Pledged Subsidiary not then included in the Pledged Securities shall have a preemptive right to subscribe for and purchase their pro rata share of such additional shares of Voting Stock, then such part of such additional shares as shall be actually subscribed for and purchased by such stockholders pursuant to such preemptive right may be issued to them and need not be deposited and pledged with the Trustee. The Company will not permit any Pledged Subsidiary to grant any additional membership interests, unless simultaneously there shall be made effective provision that certificates evidencing all such additional membership interests, forthwith upon the granting thereof, will be deposited and pledged with the Trustee.

Section 15.9 Increase, Reduction or Reclassification of Stock; Dissolution; Consolidation, etc.

Except as otherwise provided in Article XIII or this Article, the capital stock of any corporation whose shares are included in the Pledged Securities may be increased (subject to Section 15.8) or reduced or reclassified (other than a reclassification resulting in the creation of a

preferred stock of any Pledged Subsidiary or a reclassification reducing the proportionate voting power of any Pledged Securities in any corporation) and any such corporation may be dissolved; **PROVIDED, HOWEVER**, that effective provision shall (to the extent the Company has any control of such matters) be made that, in the case of any such increase, whether by stock dividend or otherwise (subject to Section 15.8), certificates for such part of each class of additional stock as shall be proportionate to the part of the entire issued and outstanding capital stock of such class of such corporation previously deposited and pledged with the Trustee and, in the case of any such reclassification, any distribution in connection therewith shall be deposited and pledged with the Trustee and that, in the case of any such reduction, there shall continue to be deposited and pledged with the Trustee certificates for not less than the same proportion of such class of capital stock deposited and pledged with the Trustee before such reduction. The Trustee may make any exchange, substitution, cancellation or surrender of certificates of stock held by it for the purpose of such increase, reduction, reclassification or dissolution. Prior to any such cancellation or surrender of stock certificates for the purpose of dissolution, the share, if any, of all the assets of the corporation so dissolved which is distributable in respect of the Pledged Securities (excluding Excepted Property) shall be subjected to the lien of this Indenture. The Trustee shall be entitled to receive and shall (subject to Section 9.1) be fully protected in relying upon an Officers' Certificate as to the amount of the share of the assets of any corporation dissolved as aforesaid which is so distributable to the holder of such Pledged Securities.

The deposit and pledge with the Trustee at any time of any shares of stock of any corporation shall not prevent any one or more of the following transactions:

A. subject to the provisions of Articles X and XI, the merger or consolidation of any Pledged Subsidiary into or with the Company or the conveyance or transfer of all or any of the assets of any Pledged Subsidiary to the Company, or

B. the merger or consolidation of any corporation, any of whose shares may be Pledged Securities, into or with any other corporation other than the Company, or the conveyance or transfer of all or any of the assets of any corporation, any of whose shares may be Pledged Securities, to any other corporation other than the Company; **PROVIDED, HOWEVER**, that no such action involving a Pledged Subsidiary shall be taken unless the corporation resulting from such consolidation, or into which such merger shall be made, or which shall have acquired the assets of a Pledged Subsidiary, shall thereupon be a Pledged Wholly-Owned Subsidiary.

Section 15.10 Enforcement.

In case default shall be made in the payment of the principal of or interest on any Pledged Security or in the due performance of any covenant contained in any Pledged Security or the instrument securing the same, then and in any such case (without prejudice, however, to any right to claim a default under this Indenture or to assert any right consequent upon such default) the Trustee, upon Company Request, may, in its discretion and upon receipt of indemnity to its satisfaction, cause, or join with other owners of like securities in causing, such proceedings as may be approved by the Trustee to be instituted and prosecuted to collect such principal and interest or enforce the performance of such covenant. If an Event of Default exists, the Trustee may, and upon the written request of the Holders of a majority in principal amount of the Obligations then

Outstanding shall, upon receipt of indemnity to its satisfaction, institute such proceedings without Company Request.

Section 15.11 Acquisition of Property of Issuers of Pledged Securities.

In case, at any time, all or any of the property of any corporation, any of whose securities are at the time Pledged Securities, shall be sold upon insolvency or foreclosure or otherwise, then and in such event, if the property of such corporation or the property sold can be acquired by crediting on any of the Pledged Securities any sum accruing or to be received thereon out of the proceeds of such property, the Trustee in its discretion may, and if requested by Company Request or by the Holders of a majority in principal amount of the Obligations then Outstanding and provided by the Company or such Holders the amount of any cash necessary therefor shall, purchase such property or cause the same to be purchased, either in the name of the Trustee or the Company or a purchasing trustee or trustees as the Trustee may determine, and shall use or permit the Company or such purchasing trustees to use such Pledged Securities so far as necessary to make payment for such property. In case of any such purchase the Trustee shall take such steps as it may deem proper to cause the property so purchased to be vested in the Company subject to the lien of this Indenture, or in some other corporation organized or to be organized with power to acquire and manage such property, or partly in the Company and partly in such other corporation, as the Company may deem advisable, **PROVIDED** that all debt of such corporation with a maturity more than one year from date of issuance (except such, if any, as shall represent a lien existing upon the property at the time it was acquired) and certificates for all the capital stock (except directors' qualifying shares) of such corporation shall be deposited and pledged with the Trustee. In case the property so sold shall not be purchased in the manner hereinabove in this Section provided, the Trustee shall receive the proceeds of sale accruing on and apportioned to such Pledged Securities and such proceeds shall be held and paid over or applied by the Trustee as provided in Article VI.

Section 15.12 Reorganization.

With Company Consent, the Trustee may join in any plan of voluntary or involuntary reorganization or readjustment or rearrangement in respect of any Pledged Securities and may accept or authorize the acceptance of new securities issued in exchange therefor under any such plan. If an Event of Default exists, the Trustee shall be entitled to take such steps without Company Consent.

Any new securities so issued shall be deposited and pledged with the Trustee under this Indenture. If the Trustee does not join in such plan or reorganization or readjustment or rearrangement, the Trustee shall receive any moneys accruing on or apportioned to such Pledged Securities and such moneys shall be held and paid over or applied by the Trustee as provided in Article VI.

Section 15.13 Renewal and Refunding.

Nothing contained in this Article shall prevent

A. the renewal or extension, without impairment of lien or security, at the same or at a lower or higher rate of interest, of any of the obligations or indebtedness of any corporation included in the Pledged Securities, or

B. the issue in substitution for any such obligations or indebtedness of other obligations or indebtedness of such corporation for equivalent amounts and of substantially equal or superior rank as to security, if any;

PROVIDED, HOWEVER, that every such obligation or indebtedness as so renewed or extended shall continue to be subject to the lien hereof and every substituted obligation or indebtedness and the evidence thereof shall be deposited and pledged with the Trustee. Except as otherwise provided in Article XIII, unless an Event of Default exists, the Trustee upon receipt of a Company Request shall, and if an Event of Default exists the Trustee may without such Company Request, consent to any such renewal, extension or substitution.

Section 15.14 Expenses.

On demand of the Trustee, the Company forthwith will pay or satisfactorily provide for all expenses incurred by the Trustee under this Article, including all expenditures (except as otherwise provided in Section 15.11) made to acquire the ownership and title to any property which the Trustee shall purchase or shall cause or authorize to be purchased under this Article. Without impairment of or prejudice to any of its rights hereunder by reason of any default of the Company, the Trustee in its discretion may (but shall not be obligated to) advance all such expenses and other sums required or may procure such advances to be made by others. The Company will repay all such advances, with interest thereon at the rate of 10% per annum, and for all such advances the Trustee shall be secured by a lien on the Trust Estate prior to the Obligations. For the repayment of all such advances the Trustee shall have the right to use and apply any Trust Moneys held by it under Article VI as part of the Trust Estate.

Section 15.15 Opinion of Counsel.

The Trustee shall be entitled, before taking any action under this Article, to receive an Opinion of Counsel stating the legal effect of any transaction relating to the Pledged Securities and the steps necessary to be taken to consummate the same and stating also that such action is in compliance with the provisions hereof and will not materially adversely effect the security of the Holders hereunder in contravention of the provisions hereof. Such Opinion of Counsel shall (subject to Section 9.1) be full protection to the Trustee for any action taken or omitted to be taken by it in reliance thereon.

(Signatures begin on next page.)

IN WITNESS WHEREOF, the parties hereto have caused this Indenture to be duly executed under seal as of the day and year first above written.

Company:
201 Third Street
Henderson, KY 42420

**BIG RIVERS ELECTRIC
CORPORATION**, a cooperative corporation
organized under the laws of the Commonwealth
of Kentucky

By: _____
Name:
Title:

Attest: _____
Name:
Title:

[CORPORATE SEAL]

(Signatures continued on next page.)

COMMONWEALTH OF KENTUCKY §

§

COUNTY OF

§

This instrument was acknowledged before me on this ____ day of _____,
~~2008, 2009~~ by _____, _____ of Big Rivers Electric Corporation, a Kentucky
cooperative corporation, on behalf of said cooperative corporation.

Notary Public's Signature
Notary-Kentucky, State at Large
My commission expires: _____

(Seal)

(Signatures continued from previous page.)

Trustee:

U.S. BANK NATIONAL ASSOCIATION,

as Trustee

By: _____

Name:

Title:

Attest: _____

Name:

Title:

STATE OF [_____] _____ § CONNECTICUT §
§
COUNTY OF _____ HARTFORD §

I, _____, a Notary Public, in and for the [_____] hereby certify that _____, whose name as _____ of **U.S. BANK NATIONAL ASSOCIATION**, a national banking association, as Trustee, is signed to the foregoing instrument and who is known to me, acknowledged before me this day that being informed of the contents of the instrument, he as such officer and with full authority, executed the same voluntarily for and as the act of said corporation national banking association.

Given under my hand this ____ day of _____, 2008-2009.

Notary Public

(Notary Seal)

My commission expires _____, 2001

**INDENTURE
EXHIBIT**

**EXHIBIT A
SCHEDULE OF MORTGAGED PROPERTY**

**INDENTURE
EXHIBIT**

**EXHIBIT B
SCHEDULE OF CERTAIN CONTRACTS INCLUDED IN TRUST ESTATE**

1. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Meade County Rural Electric Cooperative Corporation, as amended.
2. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Kenergy Corp. (successor by consolidation to Henderson Union Rural Electric Cooperative Corporation), as amended.
3. Wholesale Power Contract made as of June 11, 1962 between the Borrower and Kenergy Corp. (successor by consolidation to Green River Electric Corporation), as amended.
4. Agreement dated October 12, 1974 by and between the Borrower and Kenergy Corp. (successor by consolidation to Henderson-Union Electric Corporation), as amended.
5. Agreement dated October 12, 1974 by and between the Company and Kenergy Corp. (successor by consolidation to Green River Electric Corporation) as amended and restated by an Agreement dated February 16, 1988, as amended.
6. Wholesale Power Contract made as of October 14, 1977, between the Borrower and Jackson Purchase Rural Electric Cooperative Corporation, as amended.
7. Agreement dated as of July 15, 1998 between the Company and Kenergy Corp. (successor by consolidation to Green River Electric Corporation and Henderson-Union Electric Cooperative Corp.).
8. Power Plant Construction and Operation Agreement between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
9. Power Sales Contract between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
10. Joint Facilities Agreement between the City of Henderson, Kentucky and the Company, dated August 1, 1970, as amended.
11. Wholesale Electric Service Agreement (Alcan) dated _____, 2009 by and between the Borrower and Kenergy Corp.
12. Wholesale Electric Service Agreement (Century) dated as of _____, 2009 by and between the Company and Kenergy Corp.

13. Coordination Agreement dated as of _____, 2009 by and between the Company and Alcan Primary Products Corporation.
14. Coordination Agreement dated _____, 2009 by and between the Company and Century Aluminum of Kentucky General Partnership.
15. Security and Lockbox Agreement (Alcan) dated as of _____, 2009 by and among Old National Bank, the Company, Kenergy Corp., and Alcan Primary Products Corporation.
16. Security and Lockbox Agreement (Century) dated as of _____, 2009 by and among Old National Bank, the Company, Kenergy Corp., and Century Aluminum of Kentucky General Partnership.
17. Parent Guarantee dated as of _____, 2009 by Alcan Corporation in favor of Kenergy Corp., and the Company.
18. Parent Guarantee dated as of _____, 2009 by Century Aluminum Company in favor of Kenergy Corp., and the Company.
19. Transaction Termination Agreement dated as of March 26, 2007, by and among the Company, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.
20. Indemnification Agreement dated as of _____, 2009 by and between the Company and Western Kentucky Energy Corp.

EXHIBIT C
SCHEDULE OF EXISTING OBLIGATIONS

Series 1983 Revenue Bond Obligations

- (1) Ambac Municipal Bond Insurance Policy Series 1983 Note, dated ~~† _____ †, 2008~~, made by the Company to Ambac Assurance Corporation, (“Ambac”) reflecting the Company’s obligation to pay Ambac for any payments of principal and interest in respect of the \$58,000,000 County of Ohio, Kentucky Pollution Control Float Rate Demand Bonds, Series 1983.
- (2) Big Rivers Electric Corporation Standby Bond Purchase Agreement Note (Series 1983 Bonds), dated ~~† _____ †, 2008~~, made by the Company to Dexia Credit Local, in an amount equal to the principal and interest due on any of the \$58,000,000 County of Ohio, Kentucky Pollution Control Floating Rate Demand Bond, Series 1983 purchased by Dexia pursuant to the Standby bond Purchase Agreement identified in such Note.

Series 2001A Revenue Bond Obligations

Big Rivers Electric Corporation FCB Series 2001A Note, dated ~~† _____ †, 2008~~, made by the Company to the County of Ohio, Kentucky and endorsed to U.S. Bank Trust National Association, as trustee, in the maximum principal amount of \$83,000,000.

RUS Obligations

- (i) RUS ~~2008~~2009 Promissory Note Series A, dated ~~† _____ †, 2008~~, made by the Company to the United States of America, in the principal amount of \$~~† _____ †~~611,111,913, maturing on July 1, 2021.

(ii) RUS 2008~~2009~~ Promissory Note Series B, dated ~~1/1/2008~~, 2008, 2009, made by the Company to the United States of America, in the principal amount of \$~~1,000,000~~, at final maturity of \$245,530,257.30, maturing on December 31, 2023.

Year	Month	Acceleration Percentage	Year	Month	Acceleration Percentage
2017	July	64.79%	2020	October	80.47%
2017	October	65.85%	2021	January	81.86%
2018	January	66.99%	2021	April	83.25%
2018	April	68.13%	2021	July	84.64%
2018	July	69.27%	2021	October	86.03%
2018	October	70.40%	2022	January	87.52%
2019	January	71.62%	2022	April	89.00%
2019	April	72.84%	2022	July	90.49%
2019	July	74.05%	2022	October	91.98%
2019	October	75.27%	2023	January	93.56%
2020	January	76.57%	2023	April	95.15%
2020	April	77.87%	2023	July	96.74%
2020	July	79.17%	2023	October	98.33%
			2024	January	100.00%

YEAR	MONTH	ACCELERATION PERCENTAGE	YEAR	MONTH	ACCELERATION PERCENTAGE
2009	July	37.96%	2015	April	55.75%
2009	October	38.59%	2015	July	56.69%
2010	January	39.25%	2015	October	57.62%
2010	April	39.92%	2016	January	58.61%
2010	July	40.59%	2016	April	59.61%
2010	October	41.25%	2016	July	60.60%
2011	January	41.97%	2016	October	61.60%
2011	April	42.68%	2017	January	62.66%
2011	July	43.39%	2017	April	63.73%
2011	October	44.10%	2017	July	64.79%
2012	January	44.87%	2017	October	65.85%
2012	April	45.63%	2018	January	66.99%
2012	July	46.39%	2018	April	68.13%
2012	October	47.15%	2018	July	69.27%
2013	January	47.97%	2018	October	70.40%
2013	April	48.78%	2019	January	71.62%
2013	July	49.59%	2019	April	72.84%
2013	October	50.41%	2019	July	74.05%
2014	January	51.28%	2019	October	75.27%
2014	April	52.15%	2020	January	76.57%
2014	July	53.02%	2020	April	77.87%
2014	October	53.89%	2020	July	79.17%

*In the Matter of the Applications of Big Rivers Electric Corporation,
E.ON U.S., LLC, Western Kentucky Energy Corp. and LG&E Energy
Marketing, Inc., P.S.C. Case No. 2007-00455*

Informational Filing of June 24, 2009

**Resolutions of the City of Henderson and the Utility
Commission of the City of Henderson**

RESOLUTION AUTHORIZING THE GENERAL MANAGER TO EXECUTE DOCUMENTS NEGOTIATED WITH BIG RIVERS ELECTRIC CORPORATION REGARDING OPERATION OF THE HENDERSON STATION TWO POWER PLANT

WHEREAS, the provisions of the Second Amendatory Agreement, which will be executed and delivered on the date of the Closing of the Unwind Transaction, provide for the transfer of operation of Henderson Station Two back to Big Rivers Electric Corporation pursuant to provisions of the Power Plant Construction and Operation Agreement, Power Sales Contract and Joint Facilities Agreement; and

WHEREAS, additional administrative agreements between Henderson Municipal Power & Light and Big Rivers Electric Corporation are required in order to implement Big Rivers' function as operator of Henderson Station Two following the Closing of the Unwind Transaction, which agreements are enumerated as follows: (1) Station Two G&A Allocation Agreement; (2) Memorandum of Understanding for G&A Expenses; (3) Agreement for Assignment of Responsibility for Complying With Reliability Standards; (4) Memorandum of Understanding for Assignment of Responsibility for Complying With Reliability Standards; (5) LETTER AGREEMENT Relating to Henderson Station Two Fuel; and (6) Supplementary Agreement on SO2 Emission Allowances; and

WHEREAS, the terms and provisions of those proposed agreements have been reviewed by the members of the City of Henderson Utility Commission and are deemed to be acceptable agreements for purposes of the reassignment of the Henderson Station Two Contracts to Big Rivers Electric Corporation effective at the time and date of Closing of the Unwind Transaction.

NOW, THEREFORE, BE IT RESOLVED that the Board of Commissioners of the City of Henderson Utility Commission do hereby approve and adopt as agreements to be entered into between Henderson Municipal Power & Light and Big Rivers Electric Corporation upon the occurrence of Closing of the Unwind Transaction, and do hereby authorize and direct the General Manager to execute said agreements for and on behalf of the City of Henderson Utility Commission, and make delivery thereof to representatives of Big Rivers Electric Corporation following the Closing of the Unwind Transaction. The Board of Commissioners also hereby authorize and direct the General Manager to approve, authorize, and execute, on behalf of the City of Henderson Utility Commission, any other agreements, documents, and transactions required for the Closing of the Unwind Transaction.

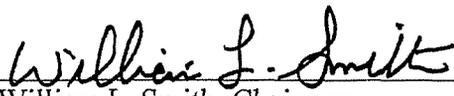
On motion of Commissioner Miller and seconded by Commissioner Hopper, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Jenkins	<u>aye</u>
Commissioner Hopper	<u>aye</u>
Commissioner Risch	<u>absent</u>
Commissioner Miller	<u>aye</u>
Chairman Smith	<u>aye</u>

WHEREUPON, Chairman Smith declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

6/22/09

Date



William L. Smith, Chairman

102300.108916/3639915.1

RESOLUTION AUTHORIZING EXECUTION
OF DESIGNATED REPRESENTATIVE/ALTERNATE
DESIGNATED REPRESENTATIVE APPOINTMENT
AGREEMENT FOR STATION TWO POWER PLANT

WHEREAS, pursuant to the requirements of the Federal Clean Air Act, the City of Henderson Utility Commission is required to designate a representative and alternate representative for the U. S. Environmental Protection Agency to represent the City's Station Two power plant on Acid Rain Program and NOx Budget Trading Program matters; and

WHEREAS, a copy of an agreement appointing Steve Noland, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42419 as the Designated Representative, and Tom Shaw, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42419, as the Alternate Designated Representative, is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson Utility Commission, that the Chairman is hereby authorized and directed to execute the aforesaid Designated Representative/Alternate Designated Representative Appointment Agreement for Station Two on behalf of the City of Henderson Utility Commission.

On motion of Commissioner Hopper, seconded by Commissioner Miller, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Hopper	<u>aye</u>
Commissioner Risch	<u>absent</u>
Commissioner Miller	<u>aye</u>
Chairman Smith	<u>aye</u>

WHEREUPON, Chairman Smith declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

6/22/09
Date



William L. Smith, Chairman

Thomas E. Davis, Mayor

Commissioners:
William M. Farmer
Robert M. Mills
Robert N. Pruitt
James A. White, Jr.

Russell R. Sights, City Manager
William L. Newman, Jr., Assistant City Manager
Joseph E. Ternes, Jr., City Attorney
Carolyn Williams, City Clerk



The City of Henderson

P.O. Box 716
Henderson, Kentucky 42419-0716

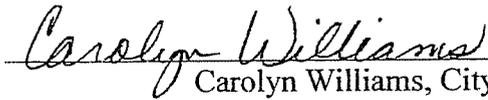


CERTIFICATION

May 13, 2009

I, Carolyn Williams, hereby certify that I am the duly qualified and acting City Clerk of the City of Henderson, Henderson County, Kentucky, and that the attached page is a true and accurate copy of Resolution No. 34-09 duly adopted during the regular meeting of the Board of Commissioners of the City of Henderson, Kentucky, held on May 12, 2009.

SEAL OF THE
CITY OF HENDERSON
KENTUCKY


Carolyn Williams, City Clerk

RESOLUTION NO. 34-09

RESOLUTION AUTHORIZING EXECUTION
OF DESIGNATED REPRESENTATIVE/ALTERNATE
DESIGNATED REPRESENTATIVE APPOINTMENT
AGREEMENT FOR STATION TWO POWER PLANT

WHEREAS, pursuant to the requirements of the Federal Clean Air Act, the City of Henderson is required to designate a representative and alternate representative for the U. S. Environmental Protection Agency to represent the City's Station Two power plant on Acid Rain Program and NOx Budget Trading Program matters; and

WHEREAS, a copy of an agreement appointing Steve Noland, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42419 as the Designated Representative, and Tom Shaw, 201 Third Street, P.O. Box 24, Henderson, Kentucky 42419, as the Alternate Designated Representative, is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT RESOLVED by the City of Henderson, Kentucky, that the Mayor is hereby authorized and directed to execute the aforesaid Designated Representative/Alternate Designated Representative Appointment Agreement for Station Two on behalf of the City.

On motion of Commissioner Mike Farmer, seconded by Commissioner Jim White, that the foregoing Resolution be adopted, the vote was called. On roll call the vote stood:

Commissioner Mills:	<u>AYE</u>	Commissioner Farmer:	<u>AYE</u>
Commissioner Pruitt:	<u>AYE</u>	Mayor Davis:	<u>AYE</u>
Commissioner White:	<u>AYE</u>		

WHEREUPON, Mayor Davis declared the Resolution adopted, affixed his signature and the date thereto and ordered that the same be recorded.

ATTEST:

Carolyn Williams
Carolyn Williams, City Clerk

Thomas E. Davis
Thomas E. Davis, Mayor
Date: May 12, 2009

APPROVED AS TO FORM AND
LEGALITY THIS 6th DAY OF
MAY, 2009

By: Joseph E. Ternes, Jr.
Joseph E. Ternes, Jr.
City Attorney