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EXHIBIT 82

COMPARISON OF REVISED SMELTER AGREEMENTS AND PREVIOUSLY-FILED SMELTER AGREEMENTS

- a. Comparison of Alcan Retail Agreement**
- b. Comparison of Century Retail Agreement**
- c. Comparison of Alcan Wholesale Agreement**
- d. Comparison of Century Wholesale Agreement**
- e. Comparison of Alcan Security and Lockbox Agreement**
- f. Comparison of Century Security and Lockbox Agreement**
- g. Comparison of Alcan Coordination Agreement**
- h. Comparison of Century Coordination Agreement**

COMPARISON OF ALCAN RETAIL AGREEMENT

RETAIL ELECTRIC SERVICE AGREEMENT

Dated as of [_____],

by and between

KENERGY CORP.

and

ALCAN PRIMARY PRODUCTS CORPORATION

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RETAIL ELECTRIC SERVICE AGREEMENT

This RETAIL ELECTRIC SERVICE AGREEMENT (this "Agreement") is dated as of [____], and made by and between KENERGY CORP., a Kentucky rural electric cooperative corporation ("Kenergy"), and ALCAN PRIMARY PRODUCTS CORPORATION, a Texas corporation ("Alcan").

RECITALS

A. Kenergy currently supplies and delivers to Alcan, the owner and operator of an aluminum reduction plant in Sebree, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp., Kenergy's predecessor-in-interest, and Alcan Aluminum Corporation, Alcan's predecessor-in-interest (the "Existing Alcan Agreement").

B. Kenergy currently purchases electric energy and related services for resale to Alcan from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with its affiliates and parent, collectively, "LG&E"), under an Agreement for Electric Service, dated as of July 15, 1998, with Kenergy (the "Kenergy/LG&E Contract").

C. Kenergy also currently purchases additional electric energy and related services for resale to Alcan, to serve the energy requirements of Alcan not provided by LG&E, from third-party energy suppliers, including Big Rivers Electric Corporation ("Big Rivers"), an electric generation and transmission cooperative of which Kenergy is a Member.

D. The Existing Alcan Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E, and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

E. Big Rivers, Kenergy, LG&E, Century Aluminum of Kentucky General Partnership ("Century"), and Alcan have agreed to enter into a series of transactions referred to herein as the New Transaction and the Unwind Transaction, as defined below.

F. In connection with and as a condition to the Unwind Transaction, Kenergy and Big Rivers have agreed to enter into a wholesale electric service agreement, dated as of the date hereof, for the purchase and sale of electric energy and related services for resale by Kenergy to Alcan ("Alcan Wholesale Agreement").

G. In connection with and as a condition to the Unwind Transaction and the Alcan Wholesale Agreement, Kenergy will supply and deliver, and Alcan will purchase, retail electric service on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the Parties, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions. Capitalized terms when used in this Agreement have the meanings specified herein, including the definitions provided in Article 1, unless stated otherwise or the context requires otherwise.

1.1.1 Accounting Principles: Generally accepted accounting principles consistently applied or, if generally accepted accounting principles in accordance with the uniform system of accounts of an applicable Governmental Authority or RUS are required, the generally accepted accounting principles consistently applied in accordance with such uniform system of accounts, each as in effect from time to time.

1.1.2 Affiliate: With respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified Person. For avoidance of doubt, no Member is an Affiliate of Big Rivers.

1.1.3 Agreement: As defined in the Preamble.

1.1.4 Alcan: As defined in the Preamble.

~~1.1.5 Alcan FAC Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$3,030,588.24, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom and subject to decreases for any tax liability to Big Rivers relating thereto. No additional principal amounts may be contributed to the Alcan FAC Reserve after the Effective Date.~~

~~1.1.5~~ ~~1.1.6~~ Alcan Guarantee: As defined in Section 13.3.

~~1.1.6~~ ~~1.1.7~~ Alcan Parent: Alcan Corporation, a Texas corporation, and parent corporation of Alcan.

~~1.1.7~~ ~~1.1.8~~ Alcan Wholesale Agreement: As defined in the Recitals.

~~1.1.8~~ ~~1.1.9~~ Ancillary Services: Those services that are necessary to support the transmission of Energy from resources to loads while maintaining reliable operations of Big Rivers' transmission system, as set forth and described in the OATT.

1.1.9 ~~1.1.10~~ Applicable Law: All laws, statutes, codes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations, interpretations, issuances, enactments, decisions, authorizations, permits or directives of any Governmental Authority having jurisdiction over the matter in question.

1.1.10 ~~1.1.11~~ Applicable Percentage: The percentage determined in each Fiscal Year that is the quotient of the Base Demand divided by the sum of the Base Demand and the “Base Demand” as defined in and as then in effect under the Century Retail Agreement. If the Century Retail Agreement is terminated or no longer in effect for any reason, Century’s “Base Demand” shall be deemed to be 482 MW for purposes of calculating the Applicable Percentage.

1.1.11 ~~1.1.12~~ Avoidable Base Charge: The amount in any Billing Month equal to the sum of:

(a) the product of (i) the sum of the Base Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Fixed Energy that was made available by Alcan to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales;

(b) *plus* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Variable Energy that was made available by Alcan to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales; and

(c) *less* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) any Base Fixed Energy or Base Variable Energy made available by Alcan to Big Rivers for Surplus Sales that was neither metered at the Point of Delivery nor sold by Big Rivers as Surplus Sales.

Sample calculations of the Avoidable Base Charge are set forth in Exhibit A.

1.1.12 ~~1.1.13~~ Back-Up Energy: For any Hour in a Billing Month, the amount of Energy metered at the Point of Delivery during such Hour, less the sum of (i) the Base Demand per Hour less Base Curtailed Energy in such Hour, and (ii) any Supplemental Energy metered at the Point of Delivery during such Hour; *provided*, that the amount of Back-Up Energy may not be less than zero.

1.1.13 ~~1.1.14~~ Back-Up Energy Charge: As defined in Section 4.4.

1.1.14 ~~1.1.15~~ Base Curtailed Energy: For any Hour in a Billing Month, the amount of Energy that is either (a) curtailed by Alcan pursuant to Section 4.13.2, or (b) sold by Big Rivers to one or more Third Parties pursuant to (i) Section 4.13.3 as Economic Sales, (ii) Section 10.1 as Surplus Sales, (iii) Section 10.2 as Undeliverable Energy Sales, or (iv) Section 10.3 as Potline Reduction Sales.

1.1.15 ~~1.1.16~~ **Base Demand**: 368 MW, or such other amount of electric demand agreed in accordance with Section 3.1, integrated over an hour ~~Hour~~.

1.1.16 ~~1.1.17~~ **Base Energy Charge**: As defined in Section 4.2.

1.1.17 ~~1.1.18~~ **Base Fixed Energy**: For any Billing Month, the product of (a) the Base Demand, (b) the number of Hours in the Billing Month, and (c) 0.98.

1.1.18 ~~1.1.19~~ **Base Hourly Energy**: For any Hour in a Billing Month, the amount of Energy equal to the sum of (a) the Energy metered at the Point of Delivery during such Hour less Supplemental Energy metered at the Point of Delivery, if any, and (b) Base Curtailed Energy; *provided*, that for purposes of calculating Base Hourly Energy, the sum of clauses (a) and (b) above during any Hour shall not exceed the Base Demand per Hour.

1.1.19 ~~1.1.20~~ **Base Monthly Energy**: The sum of the Base Hourly Energy for all Hours of a Billing Month.

1.1.20 ~~1.1.21~~ **Base Rate**: The rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with a 98% load factor, plus \$0.25 per MWh.

1.1.21 ~~1.1.22~~ **Base Variable Energy**: For any Billing Month, Base Monthly Energy less Base Fixed Energy, whether positive or negative.

1.1.22 ~~1.1.23~~ **Base Variable Rate**: ~~The Base Variable Rate shall be~~ rate, expressed ~~on a~~ in dollars per MWh ~~basis and~~, equal to the sum of (i) the “FAC Base” with respect to Big Rivers’ Tariff, (ii) the “Environmental Surcharge Base” with respect to Big Rivers’ Tariff, and (iii) the “Purchased Power Base” as defined in Appendix A.

1.1.23 ~~1.1.24~~ **Big Rivers**: As defined in the Recitals.

1.1.24 ~~1.1.25~~ **Big Rivers’ Tariff**: Big Rivers’ Rates, Rules and Administrative Regulations For Furnishing Electric Service, as filed with and approved by the KPSC.

1.1.25 ~~1.1.26~~ **Billing Month**: Each calendar month during the Service Period.

1.1.26 ~~1.1.27~~ **Budget**: The annual operating and capital budget approved by Big Rivers’ Board of Directors that estimates all revenues and expenditures of Big Rivers for a specified Fiscal Year, as amended and in effect from time to time.

1.1.27 ~~1.1.28~~ **Business Day**: Mondays through Fridays of each week except legal holidays established by federal law in the United States of America or state law in the Commonwealth of Kentucky.

1.1.28 ~~1.1.29~~ **Buy-Through Energy**: As defined in Section 2.3.2(b).

1.1.29 ~~1.1.30~~ **Buy-Through Energy Charge**: As defined in Section 4.3.2.

1.1.30 ~~1.1.31~~ Century: As defined in the Recitals.

1.1.31 ~~1.1.32~~ Century Retail Agreement: The retail electric service agreement, dated as of the date hereof, by and between Kenergy and Century.

1.1.32 ~~1.1.33~~ Century Wholesale Agreement: The wholesale electric service agreement, dated as of the date hereof, between Big Rivers and Kenergy for the benefit of Century.

1.1.33 ~~1.1.34~~ Cut-Off Date: As defined in Section 10.3.6.

1.1.34 ~~1.1.35~~ Economic Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to the sum of (a) \$157 million, and (b) such additional amount as Big Rivers may designate on or prior to the consummation of the Unwind Transaction, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. The amount designated by Big Rivers pursuant to clause (b) above may not exceed (i) an amount equal to Big Rivers' unrestricted cash on hand following the consummation of the Unwind Transaction less \$125 million, and (ii) zero if Big Rivers shall not have prepaid at least \$200 million of obligations owed to RUS debt as part of the Unwind Transaction. No additional principal amounts will be contributed by Big Rivers to the Economic Reserve after the Effective Date, ~~except as provided under Section 4.13.5(b) of the Alean Wholesale Agreement and the Century Wholesale Agreement, respectively.~~

1.1.35 ~~1.1.36~~ Economic Sales: As defined in Section 4.13.3.

1.1.36 ~~1.1.37~~ Effective Date: As defined in Section 6.1.

1.1.37 ~~1.1.38~~ Electric Services: Electric services, including capacity and associated Energy and Transmission Services, provided by Kenergy pursuant to this Agreement.

1.1.38 ~~1.1.39~~ Energy: The flow of electricity denominated in kWh or MWh.

1.1.39 ~~1.1.40~~ Environmental Surcharge: As defined in Section 4.8.3.

1.1.40 ~~1.1.41~~ Environmental Surcharge Factor: With respect to any Billing Month, a monthly environmental surcharge factor, **expressed in dollars per MWh**, that is calculated in accordance with the "Monthly Environmental Surcharge Factor" as defined in Big Rivers' ~~Tariff~~ Environmental Surcharge Rider.

1.1.41 ~~1.1.42~~ Environmental Surcharge Rider: The Environmental Surcharge Rider to Big Rivers' Tariff.

1.1.42 ~~1.1.43~~ Equity Development Credit: As defined in Section 4.10.

1.1.43 ~~1.1.44~~ Event of Default: As defined in Section 14.1.

1.1.44 ~~1.1.45~~ Excess TIER Amount: The amount of the TIER Adjustment, if negative, with respect to any Fiscal Year.

1.1.45 ~~1.1.46~~ Excess Reactive Demand Charge: As defined in Section 4.6.

1.1.46 ~~1.1.47~~ Existing Alcan Agreement: As defined in the Recitals.

1.1.47 ~~1.1.48~~ FAC: The Fuel Adjustment Clause Rider to Big Rivers' Tariff.

1.1.48 ~~1.1.49~~ FAC Charge: As defined in Section 4.8.1.

1.1.49 ~~1.1.50~~ FAC Factor: With respect to any Billing Month, the "FAC Factor" (~~fuel adjustment factor, expressed on a kWh basis~~) in dollars per MWh, that is calculated in accordance with the FAC in dollars per kWh.

1.1.50 ~~1.1.51~~ FERC: Federal Energy Regulatory Commission.

1.1.51 ~~1.1.52~~ Firm: An obligation to supply Energy subject only to the occurrence of an Uncontrollable Force.

1.1.52 ~~1.1.53~~ Fiscal Year: The fiscal year of Big Rivers.

1.1.53 ~~1.1.54~~ Governmental Authority: Any international, national, federal, state, territorial, local or other government, or any political subdivision thereof, and any governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity having legal jurisdiction over the matter or Person in question, including the KPSC; *provided, however* that the RUS is not a Governmental Authority for purposes of this Agreement.

1.1.54 ~~1.1.55~~ Hour or Hourly: A clock hour or per clock hour, respectively.

1.1.55 ~~1.1.56~~ Imputed Interest: As defined in Section 4.7.5(e).

1.1.56 ~~1.1.57~~ Interruptible Energy: As defined in Section 2.3.2(a).

1.1.57 ~~1.1.58~~ Interruptible Energy Charge: As defined in Section 4.3.1.

1.1.58 ~~1.1.59~~ Interruptible Energy Terms: As defined in Schedule 2.3.2(a).

1.1.59 ~~1.1.60~~ Kenergy/LG&E Contract: As defined in the Recitals.

1.1.60 ~~1.1.61~~ KPSC: Kentucky Public Service Commission.

1.1.61 ~~1.1.62~~ kW: Kilowatt.

1.1.62 ~~1.1.63~~ kWh: Kilowatt-hour.

1.1.63 ~~1.1.64~~ Large Industrial Rate: Big Rivers' Tariff Rate Schedule No. 7 and all applicable rate adjustments thereto but exclusive of (a) the Rebate, (b) the FAC Factor and the Environmental Surcharge Rider, and (c) any roll-in of costs from the ~~regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers~~ Regulatory Account. As of the Effective Date, the Large Industrial Rate will consist of separate rate components for demand and Energy

consumption. The Large Industrial Rate subsequently may be defined in terms of more than two separate rate components, including, potentially, separate rate components for transmission services. In such event, for purposes of this Agreement the “Large Industrial Rate” shall include all such rate components but excluding in all cases (a) the Rebate and (b) the FAC Factor and the *Environmental Surcharge Rider*. For the avoidance of doubt, the Large Industrial Rate shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.64 ~~1.1.65~~ LG&E: As defined in the Recitals.

1.1.65 ~~1.1.66~~ Lockbox Agreement: The Security and Lockbox Agreement to be entered into among Alcan, Kenergy, Big Rivers and a depository bank prior to the Effective Date with respect to the payment of certain amounts due by Alcan to Kenergy under this Agreement.

1.1.66 ~~1.1.67~~ Market Energy: As defined in Section 2.3.2(c).

1.1.67 ~~1.1.68~~ Market Energy Charge: As defined in Section 4.3.3.

1.1.68 ~~1.1.69~~ Market Reference Rate: For any Hour, a rate equal to the all-inclusive cost, including transmission and related charges on the transmission system of any Third Party (expressed in dollars per MWh), that Big Rivers estimates, in its sole discretion exercised in good faith, that it would have paid to purchase Energy from a Third Party if there had been no curtailment pursuant to Section 4.13.2 during such Hour.

1.1.69 ~~1.1.70~~ Members: The members of Big Rivers. As of the date hereof, the Members of Big Rivers are Jackson Purchase Energy Corporation, Kenergy, and Meade County Rural Electric Cooperative Corporation.

1.1.70 ~~1.1.71~~ Model: As defined in Section 1.2(o).

1.1.71 ~~1.1.72~~ Monthly Charge: As defined in Section 4.1.

1.1.72 ~~1.1.73~~ MW: Megawatt.

1.1.73 ~~1.1.74~~ MWh: Megawatt-hour.

1.1.74 ~~1.1.75~~ Net Margins: Net margins as determined by Accounting Principles. For the avoidance of doubt, Net Margins will include all operating and non-operating margins.

1.1.75 ~~1.1.76~~ Net Proceeds: The proceeds from the sale of Energy by Big Rivers to Third Parties, net of transaction costs, whenever incurred, and taxes, including Big Rivers’ estimated income tax liability on such proceeds without regard to any net operating loss carry-forward of Big Rivers existing on the date of the consummation of the Unwind Transaction, unless and to the extent Big Rivers reasonably determines that such net operating loss carry-forward otherwise would have expired unused.

1.1.76 ~~1.1.77~~ New Facilities: As defined in Section 4.7.5(e).

1.1.77 ~~1.1.78~~ New Ratepayer: A Non-Smelter Ratepayer which is (i) interconnected directly with Big Rivers' transmission system, and (ii) first receives electric service at a location served by a meter required for service at such location which meter was installed specifically for new service at such location after the Effective Date. For the avoidance of doubt, Southwire Company is not a New Ratepayer.

1.1.78 ~~1.1.79~~ New Transaction: The transactions by and between or among one or more of Kenergy, Alcan, Century and Big Rivers related to the supply of Electric Services to Alcan under this Agreement and "Electric Services" as defined in the Century Retail Agreement to Century including the Alcan Wholesale Agreement, the Century Wholesale Agreement, coordination agreements, lockbox agreements, and all other related agreements.

1.1.79 ~~1.1.80~~ Non-FAC Purchased Power Adjustment Charge: As defined in Section 4.8.2.

1.1.80 ~~1.1.81~~ Non-FAC Purchased Power Adjustment Factor: A rate (*expressed in dollars per MWh and calculated in accordance with Appendix A in dollars per kWh*) for the recovery of purchased power costs that are not otherwise included in the FAC (*expressed in dollars per kWh*) that is *calculated in accordance with Appendix A*.

1.1.81 ~~1.1.82~~ Non-Smelter Member Rates: Big Rivers' tariff rates applicable to sales of electric services to Members for resale to Non-Smelter Ratepayers and all applicable rate adjustments thereto but exclusive of (i) the Rebate and (ii) the FAC Factor and the Environmental Surcharge Rider. For the avoidance of doubt, the Non-Smelter Member Rates shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.82 ~~1.1.83~~ Non-Smelter Ratepayers: Retail ratepayers of the Members other than Alcan and Century.

1.1.83 ~~1.1.84~~ Notice of Interruption: As defined in Schedule 2.3.2(a).

1.1.84 ~~1.1.85~~ Notice of Termination for Closure: As defined in Section 7.3.1(b).

1.1.85 ~~1.1.86~~ OATT: Big Rivers' Open Access Transmission Tariff as filed with FERC and found by FERC to constitute a reciprocal open access transmission tariff.

1.1.86 ~~1.1.87~~ Parties: Kenergy and Alcan.

1.1.87 ~~1.1.88~~ Permitted Interruption: As defined in Schedule 2.3.2(a).

1.1.88 ~~1.1.89~~ Person: Any individual, corporation, cooperative, partnership, joint venture, association, joint-stock company, limited partnership, limited liability company, limited liability partnership, trust, unincorporated organization, RUS or Governmental Authority.

1.1.89 ~~1.1.90~~ Point of Delivery: The existing set of meters at Big Rivers' Reid substation or such other point of delivery mutually agreed by the Parties and Big Rivers.

1.1.90 ~~1.1.91~~ **Potential Tax Liability**: As defined in Section 13.3.

1.1.91 ~~1.1.92~~ **Potline Reduction**: As defined in Section 10.3.1.

1.1.92 ~~1.1.93~~ **Potline Reduction Sales**: As defined in Section 10.3.1.

1.1.93 ~~1.1.94~~ **Potline Reduction Sales Agreement**: As defined in Section 10.3.3.

1.1.94 ~~1.1.95~~ **Prime Rate**: The then-effective prime commercial lending rate per annum published in the “Money Rates” section of *The Wall Street Journal*. If *The Wall Street Journal* discontinues publication of the prime commercial lending rate, the Parties and Big Rivers shall agree on a mutually acceptable alternative source for that rate.

1.1.95 ~~1.1.96~~ **Prudent Utility Practice**: 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 which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could have been expected to accomplish the desired result at a 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 be any and all acceptable practices, methods, or acts generally accepted.

1.1.96 ~~1.1.97~~ **Rebate**: As defined in Section 4.9.

1.1.97 **Regulatory Account**: The regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers.

1.1.98 **Response**: As defined in Schedule 2.3.2(a).

1.1.99 **Restructuring**: The occurrence of any of the following:

(a) the merger, consolidation or other combination of Big Rivers or an Affiliate or a Member with any Person (including acquisition of another utility system) if following such transaction Big Rivers or its successor would have had sales of Energy to all Members or regulated customers on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers’ actual sales of Energy to the Members for such Fiscal Year;

(b) the acquisition of Big Rivers; or

(c) the admission of a new Member if following such admission Big Rivers would have had sales of Energy to all Members on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers’ actual sales of Energy to the Members for such Fiscal Year.

1.1.100 **Restructuring Amount**: As defined in Section 16.5.1.

1.1.101 **Retail Fee**: As defined in Section 4.12.

1.1.102RUS: United States Department of Agriculture Rural Utilities Service.

1.1.103Scheduled Interruptible Energy: As defined in Schedule 2.3.2(a).

1.1.104Sebree Smelter: The aluminum reduction plant owned and operated by Alcan, located at Sebree, Kentucky, including any expansions, additions, improvements and replacements thereof or thereto at the existing site.

1.1.105SERC: SERC Reliability Corporation, a regional reliability organization.

1.1.106Service Period: As defined in Section 2.1.

1.1.107Smelters: Alcan and Century.

1.1.108Supplemental Energy: As defined in Section 2.3.2.

1.1.109Supplemental Energy Charge: As defined in Section 4.3.

1.1.110Surcharge: As defined in Section 4.11.

1.1.111Surplus Sales: As defined in Section 10.1.1.

1.1.112System Emergency: Any cessation of operation or reduction in the provision or delivery of Electric Services by Kenergy due in whole or in part to: (a) a disconnection of all or a portion of Big Rivers' or Kenergy's system from the transmission grid (other than as a direct result of Big Rivers' or Kenergy's gross negligence or willful misconduct), (b) a system emergency on the transmission grid of a Third Party, or (c) the occurrence of a condition or situation where the delivery of Energy to a transmission grid with which Big Rivers is directly interconnected or the making available of generation services or Transmission Services which could cause (i) harm to life or limb or imminent serious threat of harm to life or limb, (ii) material damage to Big Rivers' or Kenergy's system or any material component thereof or imminent danger of material damage to property, or (iii) other dangerous occurrences that Big Rivers or Kenergy believes, in the exercise of Prudent Utility Practice, should be prevented or curtailed.

1.1.113 System Firm. An obligation to supply Energy from:

(a) Big Rivers' owned or leased generation facilities.

(b) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), or

(c) Big Rivers' Firm power purchase agreements with a term of two years or more which were not entered into for purpose of serving a specific non-Smelter load.

~~1.1.113 System Firm: An obligation to supply Energy from (i) Big Rivers' owned or leased generation facilities, (ii) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), and (iii) Big Rivers' Firm power purchase agreements with a~~

~~term of two years or more which were not entered into for purpose of serving a specific non-Smelter load,~~ in each case subject to the occurrence of an Uncontrollable Force or similar event of force majeure, a System Emergency or Big Rivers' prior satisfaction of the Energy requirements of the Non-Smelter Members, the Smelters and Third Parties under power sales agreements entered into prior to such power sales agreement the making of such obligation to supply Energy.

1.1.114 Term: As defined in Section 7.1.

1.1.115 Third Party: A Person other than Kenergy, Alcan, Big Rivers or Century.

1.1.116 Third Party Supplier(s): As defined in Section 2.3.2(c).

1.1.117 TIER: The quotient for a Fiscal Year of (i) Big Rivers' interest expenses plus Net Margins, divided by (ii) Big Rivers' interest expenses; in each case, calculated in accordance with Accounting Principles.

1.1.118 TIER Adjustment: As defined in Section 4.7.5.

1.1.119 TIER Adjustment Charge: As defined in Section 4.7.1.

1.1.120 Transition Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$35 million, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. No additional principal amounts will be contributed by Big Rivers to the Transition Reserve after the Effective Date.

1.1.121 Transmission Charge: As defined in Section 4.5.

1.1.122 Transmission Services: Network transmission services as described in the OATT and Ancillary Services. Transmission Services are currently included in the Large Industrial Rate but may be unbundled in accordance with the terms and conditions of the Alcan Wholesale Agreement.

1.1.123 Uncontrollable Force: Any cause beyond the control of the Party unable, in whole or in part, to perform its obligations under this Agreement which, despite exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid and which, despite the exercise of due diligence, it has been unable to overcome. Examples of events that may constitute the basis of an event which constitutes an "Uncontrollable Force" include: acts of God; strikes, slowdowns or labor disputes; acts of the public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; arrests and restraints of any Governmental Authority; civil or military disturbances; explosions, breakage of or accident to machinery, equipment or transmission lines; inability of a Party to obtain necessary materials, supplies or permits due to existing or future rules, regulations, orders, laws or proclamations of Governmental Authorities, civil or military; transmission constraints or System Emergencies; a forced outage of a generating unit or units preventing the physical delivery of Energy to Kenergy for resale to Alcan; and any other forces which are not reasonably within the control of the Party claiming suspension. "Uncontrollable

Forces” do not include an insufficiency of funds or decline in credit ratings or customary, expected or routine maintenance or repair of plant or equipment. Nothing contained herein shall be construed to obligate a Party to prevent or to settle a labor dispute against its will.

1.1.124 Undeliverable Energy Sales: As defined in Section 10.2.1.

1.1.125 Unwind Transaction: The consummation of the transactions contemplated on the date of the “Closing” as defined in and pursuant to the Transaction Termination Agreement among Big Rivers, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.

1.2 Rules of Interpretation. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement will have the meanings specified in this Article 1 unless the context requires otherwise; (b) the singular will include the plural and vice versa; (c) references to “Recitals,” “Articles,” “Sections,” “Exhibits” or “Schedules” are to the recitals, articles, sections, exhibits or schedules of this Agreement, unless otherwise specified; (d) all references to a particular Person in any capacity will be deemed to refer also to such Person’s authorized agents, permitted successors and assigns in such capacity; (e) the words “herein,” “hereof” and “hereunder” will refer to this Agreement as a whole and not to any particular section or subsection hereof; (f) the words “include,” “includes” and “including” will be deemed to be followed by the phrase “without limitation” and will not be construed to mean that the examples given are an exclusive list of the topics covered; (g) references to this Agreement will include a reference to all exhibits and schedules hereto; (h) references to any agreement, document or instrument will be construed at a particular time to refer to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced as of such time; (i) the masculine will include the feminine and neuter and vice versa; (j) references to any tariff, rate, or order of any Governmental Authority will mean such tariff, rate or order, as the same may be amended, modified, supplemented or restated and be in effect from time to time; (k) if any action or obligation is required to be taken or performed on any day which is not a Business Day, such action or obligation must be performed on the next succeeding Business Day; (l) references to an Applicable Law will mean a reference to such Applicable Law as the same may be amended, modified, supplemented or restated and be in effect from time to time; (m) all accounting terms not defined in this Agreement will be construed in accordance with Accounting Principles; (n) all references to a time of day shall be a reference to the prevailing time in Henderson, Kentucky; and (o) the financial and production cost models prepared by Big Rivers, including models filed with the KPSC, in connection with the application for approval of the Unwind Transaction and the New Transaction (the “Model”) have been prepared solely by Big Rivers and shall not be used by the Parties or any Governmental Authority to construe or interpret any provision of this Agreement. The Parties collectively have prepared this Agreement, and none of the provisions hereof will be construed against one Party on the ground that it is the author of this Agreement or any part hereof.

1.3 Calculations and Rounding. In making any mathematical calculation provided for or contemplated by this Agreement, the calculation will be made to six decimal places (rounded up if the numeral in the seventh decimal place is five or higher, and rounded down if the numeral in the seventh decimal place is lower than five).

ARTICLE 2

ELECTRIC SERVICES AND RATES

2.1 Service Period Obligations. In accordance with the terms and conditions of this Agreement, Kenergy will supply, and Alcan will purchase, Electric Services for a period beginning at 12:00:01 A.M. on the day next succeeding the Effective Date and continuing until 12:00:00 midnight on December 31, 2023, unless the Parties' respective obligations to supply and purchase Electric Services are earlier terminated pursuant to the terms of this Agreement (the "Service Period").

2.2 Characteristics of Service. Electric service to be supplied by Kenergy to Alcan under this Agreement shall be nominally three-phase, sixty cycle at 161,000 volts or as otherwise agreed to by the Parties and Big Rivers. The Parties and Big Rivers will mutually agree on limits of the regulation of voltage but at no time may such regulation of such limits be inconsistent with standards required by applicable Governmental Authorities or any other organizations that establish reliability and electric operation standards for the region.

2.3 Delivery Obligation. In accordance with this Agreement, during the Service Period, Kenergy will deliver, or cause to be delivered, at the Point of Delivery to Alcan Base Monthly Energy, Supplemental Energy and Back-Up Energy.

2.3.1 Base Monthly Energy. Alcan may purchase in each Hour of the Service Period an amount of Energy up to the Base Demand per Hour. For billing purposes, Base Monthly Energy consists of two components: Base Fixed Energy charged at the Base Rate and Base Variable Energy (which may be either a positive or negative amount) charged or credited at the Base Variable Rate.

2.3.2 Supplemental Energy. "Supplemental Energy" shall consist of (i) Interruptible Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(a) and Schedule 2.3.2(a), (ii) Buy-Through Energy purchased by Kenergy from Big Rivers and, in turn, by Big Rivers from Third Party Suppliers upon the interruption of Interruptible Energy, pursuant to Section 2.3.2(b), and (iii) Market Energy purchased by Kenergy from Big Rivers or Third Party Suppliers pursuant to Section 2.3.2(c).

(a) Interruptible Energy. As of the Effective Date, Kenergy shall make available to Alcan up to 10 MW per Hour of Energy subject to Kenergy's right to interrupt the delivery of such Energy ("Interruptible Energy") in accordance with the terms and conditions set forth in Schedule 2.3.2(a). Alcan hereby agrees to the terms and conditions of Schedule 2.3.2(a) and agrees to purchase the Scheduled Interruptible Energy made available thereunder and through its consent to quarterly confirmations from Big Rivers to Kenergy as described in Schedule 2.3.2(a).

(b) Buy-Through Energy. Upon each Notice of Interruption, Kenergy will offer to sell to Alcan any Firm Energy which Big Rivers in its sole discretion offers to Kenergy for resale to Alcan in lieu of the interrupted Scheduled Interruptible Energy ("Buy-Through Energy") and the estimated price or prices during the specified Hour or Hours of

Interruption upon which Big Rivers would supply such Energy. Alcan shall have ten minutes from the time it receives verbal Notice of Interruption to notify Big Rivers and Kenergy whether Alcan agrees to purchase Buy-Through Energy offered to be supplied by Big Rivers to Kenergy for resale to Alcan. Alcan promptly shall confirm verbal acceptance of the Buy-Through Energy with a facsimile confirmation or pursuant to other electronic communications acceptable to Kenergy and Big Rivers. Upon Kenergy's acceptance of the Buy-Through Energy, the obligation of Big Rivers to provide the Buy-Through Energy shall become a Firm service commitment. The failure of Alcan to notify Kenergy and Big Rivers of acceptance of the Buy-Through Energy during the period provided shall constitute a rejection of the Buy-Through Energy, and the Interruption shall thereafter be implemented in accordance with the applicable Notice of Interruption and neither Kenergy nor Big Rivers shall have any obligation to supply Alcan Buy-Through Energy during such Interruption.

(c) Market Energy. Kenergy shall use reasonable commercial efforts to acquire Supplemental Energy (other than Interruptible Energy or Buy-Through Energy) from either Big Rivers or one or more suppliers other than Big Rivers ("Third Party Suppliers") for resale to Alcan, upon the request of Alcan ("Market Energy") specifying (i) the requested amount and duration of such Energy, and (ii) all requested prices and material terms and conditions. Alcan shall pay to Kenergy all amounts that Kenergy is obligated to pay to either Big Rivers or any Third Party Supplier, including the purchase price paid by Kenergy for such Market Energy and the costs, if any, of transmission services or related services incurred on Third Party transmission systems to transmit such Market Energy to a point of interconnection with Big Rivers' transmission system. Nothing in this Agreement may be construed to limit the ability of Kenergy to purchase Energy or other electric services from Third Party Suppliers to serve Alcan.

(i) Kenergy's obligation to enter into any contractual arrangements with Big Rivers or a Third Party Supplier for the purchase of Market Energy shall be conditioned upon Kenergy's prior receipt of a written notification from Alcan setting forth Alcan's consent to the execution, delivery and performance of such contractual arrangements and upon Alcan's providing such financial assurances as may be reasonably required to hold Kenergy harmless for its obligations in connection therewith.

(ii) As a condition to the effectiveness of any contractual arrangements for the purchase of Market Energy for resale to Alcan, Kenergy shall make application to, and use reasonable commercial efforts to obtain approval of, the KPSC to sell such Market Energy to Alcan each Billing Month in an amount that is equal to the amount that Kenergy is required to pay each Billing Month to Big Rivers or a Third Party Supplier, as applicable, for such Market Energy.

(iii) Promptly following request by Alcan for Market Energy, Kenergy shall request that Big Rivers provide all Transmission Services necessary to transmit Market Energy requested by Alcan from a point of interconnection on Big Rivers' transmission system to the Point of Delivery ~~promptly following such request~~. The amount of Market Energy transmitted from a point of interconnection on Big Rivers' system to the Point of Delivery shall be reduced by the applicable system loss factor as provided in the OATT. Alcan acknowledges

and agrees that Kenergy shall have no liability to Alcan for Big Rivers' denial of Kenergy's duly submitted request for reservation of Transmission Services.

(iv) With respect to a purchase of Market Energy from a Third Party Supplier, Kenergy shall be obligated to deliver to Alcan only those amounts of Market Energy received from such Third Party Supplier, net of applicable losses of Energy on Big Rivers' transmission system. Kenergy will not be in default under any provision of this Agreement nor will it have any liability to Alcan if the non-delivery of Market Energy is due to a failure by a Third Party Supplier to deliver the full amount of Market Energy under the terms and conditions of the agreement between Kenergy and such Third Party Supplier provided that Kenergy has assigned to Alcan Kenergy's rights and remedies against the Third Party Supplier under such agreement.

(v) If Alcan is unable to receive and consume Market Energy purchased by Kenergy from a Third Party Supplier because of an Uncontrollable Force, then upon the request of Alcan, Kenergy shall use reasonable commercial efforts to sell or cause to be sold such Market Energy to other Third Parties for the duration specified by Alcan's request. Kenergy shall apply all revenues derived from such resale as a credit to Alcan, net of any transmission services charges or related charges or other expenses incurred to make such resale.

2.3.3 Back-Up Energy. Kenergy shall provide Back-Up Energy to Alcan at the Point of Delivery through purchases of Energy from Big Rivers at the prices and on the terms and conditions set forth in Section 4.4.

2.4 Power Factor. Alcan shall use commercially reasonable efforts to maintain (a) a power factor at the Point of Delivery as nearly as practicable to unity, and (b) a power factor that is not below 0.90 leading or lagging with respect to maximum electric demand incurred by Alcan during any Billing Month. Alcan shall, without regard to the obligations of Big Rivers pursuant to the Alcan Wholesale Agreement, cause to be maintained a power factor at the Point of Delivery at unity with respect to Energy purchased by Kenergy or Big Rivers from Third Parties for resale to Alcan.

2.5 Title and Risk of Loss. Title to and risk of loss with respect to Energy provided by Kenergy to Alcan pursuant to this Agreement will pass from Kenergy to and rest in Alcan when the same is made available by Kenergy (or Big Rivers on behalf of Kenergy) at the Point of Delivery. After title passes to Alcan, Alcan will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby.

2.6 Performance by Kenergy. Alcan acknowledges and agrees that, to the extent Big Rivers has a corresponding or related obligation to Kenergy under the Alcan Wholesale Agreement, Kenergy's performance of an obligation under this Agreement is subject to and conditioned upon Big Rivers' performance of such corresponding or related obligation to Kenergy. Alcan acknowledges and agrees that Big Rivers may enforce an obligation of Alcan under this Agreement which corresponds or relates to an obligation of Kenergy to Big Rivers under the Alcan Wholesale Agreement.

ARTICLE 3

CHANGES IN DEMAND AND SCHEDULING

3.1 Change In Base Demand. Alcan may change the Base Demand for any Fiscal Year only with the written consent of Kenergy and Big Rivers.

3.2 Scheduling.

3.2.1 Alcan shall not be required to schedule Base Monthly Energy, Buy-Through Energy or Back-Up Energy but shall use reasonable commercial efforts to inform Kenergy and Big Rivers promptly of any material change in its intended usage.

3.2.2 In accordance with the OATT, Alcan must schedule and arrange with Kenergy and Big Rivers no later than 9:00 A.M. on the Business Day immediately preceding the day or days of delivery, or as otherwise mutually agreed by the Parties and, if applicable, Big Rivers, the delivery of Interruptible Energy and Market Energy.

ARTICLE 4

CHARGES AND CREDITS

4.1 Monthly Charge. Alcan shall pay Kenergy the following (the “Monthly Charge”) for the Electric Services provided or made available under this Agreement:

- 4.1.1 the Base Energy Charge calculated pursuant to Section 4.2,
- 4.1.2 plus the Supplemental Energy Charge calculated pursuant to Section 4.3,
- 4.1.3 plus the Back-Up Energy Charge calculated pursuant to Section 4.4,
- 4.1.4 plus the Transmission Charge pursuant to Section 4.5,
- 4.1.5 plus the Excess Reactive Demand Charge calculated pursuant to Section 4.6,
- 4.1.6 plus the TIER Adjustment Charge calculated pursuant to Section 4.7.1,
- 4.1.7 plus the FAC Charge calculated pursuant to Section 4.8.1,
- 4.1.8 plus the Non-FAC Purchased Power Adjustment Charge calculated pursuant to Section 4.8.2,
- 4.1.9 plus the Environmental Surcharge calculated pursuant to Section 4.8.3,
- 4.1.10 plus or minus the monthly amortization of the Restructuring Amount calculated pursuant to Section 16.5.1,
- 4.1.11 less the Rebate calculated pursuant to Section 4.9,

- 4.1.12 less the Equity Development Credit calculated pursuant to Section 4.10,
- 4.1.13 plus the Surcharge calculated pursuant to Section 4.11,
- 4.1.14 plus the Retail Fee calculated pursuant to Section 4.12,
- 4.1.15 less the credits calculated pursuant to Section 4.13,
- 4.1.16 plus or minus other amounts calculated pursuant to Section 4.14, and
- 4.1.17 plus taxes calculated pursuant to Section 4.15.

4.2 Base Energy Charge. For any Billing Month, the “Base Energy Charge” shall be the sum of:

- (a) the product of Base Fixed Energy and the Base Rate; and
- (b) the product, whether positive or negative, of the Base Variable Energy and the Base Variable Rate.

Sample calculations of the Base Energy Charge at different load factors are set forth in Exhibit A.

4.3 Supplemental Energy Charge. For any Billing Month, the “Supplemental Energy Charge” shall be the sum of the charges, whenever determined, Kenergy is obligated to pay for the Interruptible Energy Charge, the Buy-Through Energy Charge, and the Market Energy Charge, as calculated below.

4.3.1 The “Interruptible Energy Charge” shall be the product of (i) the quantity of Interruptible Energy metered at the Point of Delivery during the Billing Month and (ii) the rate or rates for Interruptible Energy with respect to such Billing Month.

4.3.2 The “Buy-Through Energy Charge” shall be the sum of:

(a) any and all of the charges for Buy-Through Energy purchased by Kenergy for delivery to Alcan pursuant to Section 2.3.2(b) during such Billing Month including any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Buy-Through Energy purchased from a Third Party to a point at which Big Rivers’ transmission system is interconnected with such system; and

(b) all other charges that Kenergy may be required to pay to Big Rivers in connection with Buy-Through Energy, including any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Buy-Through Energy to Kenergy for resale to Alcan.

4.3.3 The “Market Energy Charge” shall be the sum of:

(a) any and all of the charges for Market Energy purchased by Kenergy for delivery to Alcan pursuant to Section 2.3.2(c) during such Billing Month including any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Market Energy purchased from a Third Party to a point at which Big Rivers’ transmission system is interconnected with such system; and

(b) all other charges that Kenergy may be required to pay to Big Rivers or any Third Party Suppliers in connection with Market Energy, including any amount payable upon termination by reason of default of the supply arrangements between Kenergy and Big Rivers or Kenergy and a Third Party Supplier, net of recoveries by Kenergy or Big Rivers from such suppliers with respect to the supply of Market Energy to Kenergy for resale to Alcan.

4.4 Back-Up Energy Charge. For any Billing Month, the “Back-Up Energy Charge” shall be the sum of the Hourly charges for Back-Up Energy calculated as follows:

4.4.1 The charge for Back-Up Energy supplied in any Hour shall equal the following:

(a) to the extent the Back-Up Energy was supplied by Big Rivers from generating facilities owned or controlled by Big Rivers and located within Big Rivers’ transmission control area, the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to the greater of (1) the real time Hourly locational marginal price at Big Rivers’ interface with the Midwest Independent System Operator (or such other pricing reference point that shall be mutually agreed upon by the Parties and Big Rivers), and (2) Big Rivers’ system lambda; divided by (B) 1.00 minus the loss factor set forth in the OATT;

(b) to the extent the Back-Up Energy was not supplied pursuant to Section 4.4.1(a), the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to 110% of the highest Hourly all inclusive cost incurred by Big Rivers to acquire any Energy, including such Back-Up Energy, and the separate cost, if any, whenever determined, of transmission services and related services provided by a Third Party whose transmission system is used to transmit Back-Up Energy purchased from a Third Party to a point at which Big Rivers’ transmission system is interconnected with such system and including any imbalance charges or other costs arising from the failure of a Third Party Supplier to deliver Energy that it is obligated to deliver; divided by (B) 1.00 minus the loss factor set forth in the OATT; and

(c) to the extent that the amount of Back-Up Energy required by Alcan during any hour exceeds the sum of (x) ten MW per Hour, (y) the amount of Back-Up Energy resulting from deemed Interruption of Scheduled Interruptible Energy pursuant to Schedule 2.3.2(a), and (z) the amount of Back-Up Energy resulting from the non-delivery of Market Energy purchased by Kenergy from a Third Party Supplier, then the charge for the excess

amount of Back-Up Energy shall be the product of (i) the excess amount of Back-Up Energy, and (ii) the greater of (A) \$250 per MWh and (B) the price set forth in Section 4.4.1(b)(ii).

Sample calculations of the Back-Up Energy Charge are set forth in Exhibit A.

4.4.2 If during any Hour Kenergy provides Back-Up Energy to Alcan and “Back-Up Energy” (as defined in the Century Retail Agreement) to Century, then the provisions of Section 4.4.1 shall apply to a proportional number of MW of Back-Up Energy for each of Alcan and Century.

4.5 Charge for Transmission Services and Ancillary Services. For any Billing Month, the charge for transmission services and ancillary services (the “Transmission Charge”) shall be the sum of the charges, calculated in accordance with the OATT, for Transmission Services for (a) Base Monthly Energy that are unbundled from the Large Industrial Rate in accordance with the terms of the Alcan Wholesale Agreement, if any; and (b) Supplemental Energy.

4.6 Excess Reactive Demand Charge. For any Billing Month, the “Excess Reactive Demand Charge”, if any, shall be the product of \$0.1433 and the amount, expressed in kilovars, of the difference, if positive, between:

(a) the maximum metered reactive demand of Alcan during the Billing Month, and

(b) an amount of kilovars equal to the sum of:

(i) the product of (A) 0.4843, and (B) the maximum hourly demand during a Billing Month, denominated in kilowatts, associated with Base Monthly Energy, Interruptible Energy, Market Energy, and Back-Up Energy provided by Big Rivers to Kenergy for resale to Alcan, but less the amount of such Interruptible Energy, Market Energy or Back-Up Energy that was purchased by Big Rivers from Third Parties, and

(ii) 54,114.

4.7 TIER Adjustment Charge.

4.7.1 The “TIER Adjustment Charge” shall be, for any Fiscal Year, the amount that is the product of the Applicable Percentage and the TIER Adjustment if, and only if, such TIER Adjustment is a positive amount; *provided, however*, that in no case will the TIER Adjustment Charge for any Fiscal Year exceed the amount that is the product of the Base Fixed Energy and the maximum additional charge per MWh set forth below for the applicable Fiscal Year:

<u>Fiscal Years</u>	<u>Maximum Additional Charge</u>
2008-2011	\$1.95 per MWh
2012-2014	\$2.95 per MWh
2015-2017	\$3.55 per MWh
2018-2020	\$4.15 per MWh

If the TIER Adjustment shall be negative, there will be an Excess TIER Amount and no TIER Adjustment Charge.

4.7.2 Prior to each Fiscal Year, Big Rivers shall estimate both the TIER Adjustment and, if the TIER Adjustment is positive, the TIER Adjustment Charge based on the Budget for such Fiscal Year. Kenergy shall collect such estimated amount from Alcan in equal monthly installments as part of the Monthly Charge for each Billing Month during the applicable Fiscal Year.

4.7.3 Within 45 days following the end of the first, second and third fiscal quarters of each Fiscal Year, Big Rivers shall again estimate the TIER Adjustment and the corresponding amount of the TIER Adjustment Charge based on a comparison of the Budget and year-to-date results of operations, and shall calculate a modified amount to be collected from, or refunded as a credit to, the Monthly Charge to Kenergy with respect to service to Alcan during the remaining portion of the Fiscal Year, including any amounts necessary to address any estimated under- or over-collection of the TIER Adjustment Charge from Alcan as compared to the Budget during the remainder of the Fiscal Year. Kenergy shall collect or credit such modified amount from Alcan in equal monthly installments as part of the Monthly Charge for the remaining Billing Months of the subject Fiscal Year.

4.7.4 As soon as reasonably practicable but no later than 120 days after the end of each Fiscal Year, Big Rivers shall calculate the TIER Adjustment and TIER Adjustment Charge for such Fiscal Year. The TIER Adjustment Charge for such Fiscal Year shall be compared to the aggregate amounts paid by Alcan in respect of the estimated TIER Adjustment Charge for such Fiscal Year, and the difference between such amounts shall be included as a charge or credit, as applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year.

4.7.5 The “TIER Adjustment” shall be the amount of incremental revenue, whether positive or negative, calculated with respect to each Fiscal Year after determination of Net Margins for such Fiscal Year (excluding amounts payable to Kenergy with respect to or relating to the revenue that results from the TIER Adjustment Charge and the “TIER Adjustment Charge” as defined in the Century Retail Agreement), that is necessary for Big Rivers to receive in order to achieve a TIER of 1.24 for such Fiscal Year; *provided, however*, that if the Service Period commences or terminates on a date other than the first or last day of a Fiscal Year and to give effect to this Section 4.7.5, the TIER Adjustment will be calculated on an Hourly basis only with respect to the partial period of the first or final Fiscal Year of the Service Period, as applicable. The determination of the TIER Adjustment shall be subject to the following:

(a) It shall be assumed that: Big Rivers shall have generated additional revenue from service to the Members for resale to the Non-Smelter Ratepayers as if Big Rivers had increased the Non-Smelter Member Rates by a weighted average of 2.00% in 2010, another 2.50% in 2018 and another 4.00% in 2021 if and to the extent Big Rivers had not prior to or during the year of the calculation increased the Non-Smelter Member Rates by at least such amounts. The revenues from any roll-in of the costs associated with costs recovered under

the FAC-er, the Environmental Surcharge Rider or the Regulatory Account that ~~is~~^{are} incorporated into base rates comprising a portion of the Non-Smelter Member Rates will not constitute an increase in the Non-Smelter Member Rates for purposes of this clause (a), and the revenues attributable to any such roll-in will be excluded in calculating the percentage of any increases in the Non-Smelter Member Rates. The expiration or termination of Big Rivers' Member Discount Adjustment Rider shall be deemed to be an increase in the Non-Smelter Member Rates for purposes of this clause (a), without regard to whether such expiration or termination occurs prior to, on or after the Effective Date.

(b) It shall be assumed that: If a Member provides electric service to a New Ratepayer with a Firm demand in excess of 15 MW, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the greater of: (i) the amount paid for such service and (ii) an amount calculated for the same period equal to (A) a rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with the New Ratepayer's load factor, plus \$0.25 per MWh, *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis), *plus* (C) the Surcharge (the Surcharge being calculated on an amount per MWh based on Base Fixed Energy for such Fiscal Year) set forth in Section 4.11; *plus* (D) amounts corresponding to the amount per MWh paid by Kenergy during the same period for the TIER Adjustment Charge. If a Member provides electric service to a New Ratepayer with a Firm demand of 15 MW or less, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the sum of (i) the Large Industrial Rate and (ii) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis). For purpose of this clause (b), the revenues produced by any surcharge with respect to a New Ratepayer similar to the Surcharge or the "Surcharge" under the Century Retail Agreement will be assumed to accrue solely to the benefit of the Non-Smelter Ratepayers except to the extent such surcharge is paid by or imputed to a New Ratepayer pursuant to subclause (A) of this clause (b). The assumptions contained in this clause (b) shall not apply with respect to a New Ratepayer that first interconnects with Big Rivers' transmission system during the last three Fiscal Years of the Service Period or following notice of termination of this Agreement or the Century Retail Agreement.

(c) It shall be assumed that: Big Rivers' interest expense shall have been reduced by the product of (i) Big Rivers' average effective interest rate for borrowed money for the prior Fiscal Year, and (ii) the aggregate amount of any patronage capital retired by Big Rivers to its Members during the Service Period (other than any distribution from the Economic Reserve or the Transition Reserve or relating to the Surcharge or the "Surcharge" under the Century Retail Agreement), from and after the date of such retirement.

(d) It shall be assumed that: Interest on construction work-in-progress relating to the construction of new electric generating facilities or transmission facilities shall have been capitalized by Big Rivers if it has the right to elect to do so or it is obligated to capitalize such interest under Accounting Principles unless a Governmental Authority has approved the inclusion of such interest expenses in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such interest expenses.

(e) If Big Rivers acquires or constructs non-peaking electric generating facilities alone or with others (“New Facilities”), Big Rivers’ interest expenses shall not include the interest imputed on the debt relating to the New Facilities (“Imputed Interest”); *provided, however*, that if a Governmental Authority has approved the inclusion of such generating facilities in Big Rivers’ revenue requirements for rate-making purposes or otherwise approved a surcharge to provide for the recovery of the costs of such New Facilities, then actual interest expense with respect to such New Facilities shall be included in the TIER calculation to the extent recovery is permitted; *provided, further*, that this clause (e) may not cause the TIER Adjustment to become negative. For purposes of determining Imputed Interest, it shall be assumed that the New Facilities were financed 80% with debt and 20% with equity. Imputed Interest shall equal the product of (i) the weighted average interest rate on Big Rivers’ debt for the Fiscal Year, and (ii) the amount of debt equal to 80% of the capital invested in the New Facilities.

(f) It shall be assumed that: ~~The Alean FAC Reserve, the Century FAC Reserve (as defined in the Century Retail Agreement), the Economic Reserve and the Transition Reserve~~ shall not generate any revenue or tax liability and the application of funds from ~~the Alean FAC Reserve, the Century FAC Reserve (as defined in the Century Retail Agreement), the Economic Reserve or the Transition Reserve~~ shall not result in any change in the Net Margins of Big Rivers.

(g) It shall be assumed that: Big Rivers shall have made no payment for damages or indemnification to or for the benefit of a Smelter with respect to the provision of Electric Services or “Electric Services” as defined in the Century Retail Agreement.

(h) It shall be assumed that: Big Rivers shall have paid no criminal penalties with respect to its acts or omissions other than criminal penalties that a Governmental Authority has approved the inclusion of in Big Rivers’ revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such penalties.

(i) It shall be assumed that: Big Rivers shall have received no proceeds from the sale of Energy to the wholesale market pursuant to Section 4.13.3 or the corresponding section of the Century Retail Agreement.

(j) It shall be assumed that: Big Rivers shall have incurred no expenses that are impermissible for inclusion in rates of electric generation and transmission cooperative utilities subject to the jurisdiction of the KPSC for rate-making purposes (currently including advertising expenses, branding expenses, charitable contributions and lobbying expenses) or specifically disallowed for rate making purposes by a Governmental Authority; *provided, however*, that denial by a Governmental Authority of expense recovery through the FAC or the Environmental Surcharge Rider shall not constitute an expense that is impermissible for inclusion in rates if the nature of such expense is recoverable in base rates.

(k) It shall be assumed that: There are no revenues and expenses associated with non-regulated businesses of Big Rivers.

(l) It shall be assumed that: No interest is paid pursuant either to Section 5.3 or Section 5.4 or pursuant to the corresponding sections of the Century Retail Agreement.

(m) It shall be assumed that: No amounts have been or are payable with respect to Excess Reactive Demand Charges or with respect to “Excess Reactive Demand Charges” under the Century Retail Agreement.

(n) It shall be assumed that: No administrative fee shall have been received by Big Rivers as a result of any Surplus Sales, Undeliverable Energy Sales or Potline Reduction Sales or sales of Energy pursuant to the corresponding sections of the Century Retail Agreement.

(o) Additional costs related to a change in Big Rivers’ depreciation rates may not be included in the calculation of the TIER Adjustment unless such change has been approved, consented to or accepted by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by the RUS or any other Governmental Authority having jurisdiction over such change, if any.

(p) It shall be assumed that: The amortization of any Restructuring Amount is zero.

4.7.6 Any proceeds received or transaction costs paid by Big Rivers as part of or in connection with the consummation of the Unwind Transaction shall be disregarded for purposes of computing the TIER Adjustment Charge for the Fiscal Year in which the Unwind Transaction occurs.

4.8 Adjustable Charges.

4.8.1 The “FAC Charge” shall be the product of the FAC Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.2 The “Non-FAC Purchased Power Adjustment Charge” shall be the product of the Non-FAC Purchased Power Adjustment Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.3 The “Environmental Surcharge” shall be the product of the Monthly Environmental Surcharge Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.9 Rebate. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers elects to implement a rebate to its Members in respect thereof, then no later than the first day of the fifth month of the following Fiscal Year, Kenergy will credit to Alcan an amount (the “Rebate”) equal to the product of:

- (i) the Excess TIER Amount, and
- (ii) a fraction:

(1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and

(2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Century Retail Agreement (without regard to whether the Century Retail Agreement is then in effect).

4.10 Equity Development Credit. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers does not elect to implement a rebate to its Members, then no later than the first day of the fifth month of the following Fiscal Year, Kenergy will credit against the next Monthly Charge an amount (the "Equity Development Credit") equal to the product of:

(i) the Excess TIER Amount, and

(ii) a fraction:

(1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and

(2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Century Retail Agreement (without regard to whether the Century Retail Agreement is then in effect).

Notwithstanding the above, the Equity Development Credit for any Fiscal Year may not exceed an amount which would cause the charge for Base Fixed Energy (including Energy curtailed pursuant to Section 4.13.2 or sold to Third Parties pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales) less the Equity Development Credit for such Fiscal Year on a per MWh basis to be less than (A) the Large Industrial Rate for a customer with a 98% load factor plus (B) the sum of the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis).

4.11 Surcharge. In addition to any other amounts payable under this Agreement, and ~~notwithstanding~~ notwithstanding anything in this Agreement to the contrary, Alcan shall pay a surcharge (the "Surcharge") equal to the sum of the following:

(a) As applicable:

(i) \$184,361 each Billing Month from the Effective Date through and including December, 2011;

(ii) \$263,373 each Billing Month from January, 2012 through and including December, 2016;

(iii) \$367,380 each Billing Month from January, 2017 through the expiration of the stated Term of this Agreement; plus

(b) For any Billing Month, the product of (i) Base Fixed Energy and (ii) \$0.60 per MWh; and plus

(c) For any Billing Month, the product of (i) Base Fixed Energy and (ii) the number of cents per MW per Hour (which number shall not exceed 60 or be less than zero) that Big Rivers' projected annual average costs per MWh for fuel consumed by Big Rivers in its coal-fired generation as set forth in its Budget are greater than the amounts set forth on Schedule 4.11(c), in each case, for that Fiscal Year relating to such Billing Month. Big Rivers shall within 45 days following the end of each fiscal quarter compute its actual costs per MWh for fuel consumed by Big Rivers' coal-fired generation in each Billing Month for such fiscal quarter and shall calculate (on a fiscal-year-to-date basis in a manner consistent with this Section 4.11(c)) an additional amount to be paid by or credited to Alcan based on such actual costs incurred for fuel consumed compared to the amounts set forth in the Budget for such Billing Months; *provided*, any additional amounts to be paid by or credited to Alcan shall be applied to amounts due for the remainder of the Fiscal Year under this Section 4.11(c). Within 120 days of the end of each Fiscal Year, an additional amount shall be credited to Alcan if necessary so that the total amounts paid pursuant to this Section 4.11(c) for such Fiscal Year shall not exceed an amount equal to the product of Base Fixed Energy for such Fiscal Year and 60 cents per MW per Hour; such amount shall be included as a credit, if applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year; minus

(d) For each of the first 96 Billing Months, \$86,588.

The obligations of Alcan to pay the Surcharge will cease to accrue upon the termination of this Agreement. Sample calculations of the Surcharge under Section 4.11(c) are set forth in Exhibit A.

4.12 Retail Fee. For any Billing Month, the "Retail Fee" shall, unless modified in accordance with Section 13.1.2, be an amount equal to the sum of:

- (a) the product of:
 - (i) \$0.000045 per kWh, and
 - (ii) the sum of the Base Monthly Energy, Supplemental Energy, and Back-Up Energy purchased by Alcan pursuant to this Agreement, and
- (b) \$2,614 per month.

4.13 Credits.

4.13.1 Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales. For any Billing Month, Kenergy will credit Alcan (a) the Net Proceeds of any Surplus Sales pursuant to Section 10.1 to the extent of the Avoidable Base Charge; and (b) the amount of Net

Proceeds of any Undeliverable Energy Sales or Potline Reduction Sales to which Alcan is entitled pursuant to Section 10.2 or Section 10.3, respectively, less \$0.25 per MWh as an administrative fee in each case. Sample calculations of the Net Proceeds from Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales that would be credited to Alcan are set forth in Exhibit A.

4.13.2 Curtailment of Purchased Power. For any Billing Month, Kenergy will credit Alcan for any Hour during such Billing Month an amount equal to the product of (a) the Market Reference Rate during such Hour, and (b) the amount of Base Demand per Hour curtailed, if any, during such Hour in an amount and for a duration mutually agreed among Alcan, Kenergy and Big Rivers pursuant to this Section 4.13.2 and the corresponding section of the Century Retail Agreement. If both Alcan and Century agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.2 and the corresponding section of the Century Retail Agreement, Alcan and Century shall notify Kenergy and Big Rivers as to whose curtailment shall take precedence. If Kenergy and Big Rivers are not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Kenergy and Big Rivers first shall take precedence. From time to time, Alcan shall notify Kenergy and Big Rivers of the minimum price at which it is willing to consider curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.2. Notwithstanding the foregoing, Alcan hereby releases Kenergy and Big Rivers from any or all claims or liabilities resulting from a failure of Kenergy or Big Rivers to fulfill its obligations pursuant to this Section 4.13.2 (other than applying credits under this Section 4.13.2 to the Monthly Charge), including a failure to notify Alcan of Energy prices reaching or exceeding the minimum price at which Alcan will consider curtailment. Sample calculations of credit that would be due to Alcan for curtailment of purchased power are set forth in Exhibit A.

4.13.3 Economic Sales. For any Billing Month, Kenergy will credit Alcan 100% of the Net Proceeds Kenergy receives from Big Rivers (which is 75% of the Net Proceeds that Big Rivers receives) in respect of the curtailment of the delivery of Base Demand per Hour in an amount and for a duration mutually agreed among Alcan, Kenergy and Big Rivers if Big Rivers sells such curtailed Base Demand per Hour to the wholesale Energy market ("Economic Sales"); *provided*, that unless otherwise agreed among Kenergy, Alcan and Big Rivers, (a) the amount of Base Demand per Hour curtailed by Alcan may not exceed 100 MW per Hour, (b) the number of curtailments each year shall be limited to twelve, and (c) each curtailment may not last longer than four Hours, and *provided further*, that Big Rivers shall have no obligation to make Economic Sales until after Big Rivers first sells all of its own surplus Energy to the wholesale Energy market. If both Alcan and Century agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.3 and the corresponding section of the Century Retail Agreement, Alcan and Century must notify Kenergy and Big Rivers as to whose curtailment shall take precedence. If Kenergy and Big Rivers are not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Kenergy and Big Rivers first shall take precedence. From time to time, Alcan shall notify Kenergy and Big Rivers of the minimum price at which it is willing to consider curtailment pursuant to this Section 4.13.3. Notwithstanding the foregoing, Alcan hereby releases Kenergy and Big Rivers from any or all claims or liabilities resulting from the

failure of Kenergy or Big Rivers to fulfill its obligations pursuant to this Section 4.13.3 (other than applying credits under this Section 4.13.3 to the Monthly Charge), including a failure to notify Alcan of Energy prices reaching or exceeding the price of which Alcan will consider curtailment and the failure to make such sales after such notification. Sample calculations of the portion of the Net Proceeds from Economic Sales that would be credited to Alcan are set forth in Exhibit A.

4.13.4 Market Energy Sales. For any Billing Month, Kenergy will credit Alcan all revenues derived from the resale of Market Energy purchased from Third Party Suppliers, net of any transmission services charges or any other charges or other expenses in connection therewith whenever incurred, that Kenergy receives from the sale of Market Energy to Third Parties pursuant to Section 2.3.2(c)(v). Sample calculations of credit that would be due to Alcan for such sales of Market Energy are set forth in Exhibit A.

~~4.13.5 Alcan FAC Reserve Credit.~~

~~(a) For any Billing Month in 2009 or later in which the FAC Factor (expressed on a MWh basis) exceeds the amount set forth on Schedule 4.13.5 for the year relating to such Billing Month, Kenergy will credit the Monthly Charge by an amount equal to the product of (1) such excess, (2) Base Monthly Energy, and (3) 0.090909. Each credit pursuant to this Section 4.13.5 shall reduce the Monthly Charge owed and the Alcan FAC Reserve by a corresponding amount. Kenergy will credit the Monthly Charge and the Alcan FAC Reserve pursuant to this Section 4.13.5 only to the extent that the Alcan Reserve Account would not be reduced below zero following the application thereof. For purposes of this Section, the "FAC Factor" set forth on Schedule 4.13.5 shall be adjusted to reflect any roll in after the Effective Date of costs associated with costs recovered under the FAC that are incorporated into base rates comprising a portion of the Large Industrial Rate.~~

~~(b) Alcan agrees that upon termination of this Agreement and after the determination of the final Monthly Charge thereunder, any remaining funds in the Alcan FAC Reserve shall be credited to the Economic Reserve.~~

4.14 Other Amounts. For any Billing Month, any amounts payable pursuant to Section 10.1.4, 10.2.3 or 10.3.7 shall be added to or subtracted as applicable from the calculation of the Monthly Charge.

4.15 Taxes. No state or local sales, excise, gross receipts or other taxes are included in the charges and credits set forth in this Article 4. Alcan shall pay or cause to be paid any such taxes which are now or hereafter become applicable to the sale of Electric Services to Alcan under this Agreement.

ARTICLE 5

BILLING

5.1 Monthly Invoice. Kenergy shall bill Alcan on or before the ~~fifth~~tenth Business Day of each month for the Monthly Charge as calculated pursuant to Article 4 based on the sale of Electric Services during the most recently ended Billing Month plus any other amounts then

due and owing pursuant to this Agreement. Alcan shall pay Kenergy (or Big Rivers on behalf of Kenergy) the Monthly Charge and any other amounts due and owing in immediately available funds to an account designated in the Lockbox Agreement on the Business Day following the 24th day of the month following the Billing Month or such earlier date of such month on which the Members' payment to Big Rivers for the provision of electric services is due. For the convenience of the Parties, and to facilitate satisfaction of Kenergy's obligation to Big Rivers, Alcan hereby acknowledges and consents to the assignment by Kenergy to Big Rivers of its right to receive such payment from Alcan under this Agreement other than with respect to the Retail Fee and Kenergy's rights to collect and enforce collection of such amounts due from Alcan. If Big Rivers owes credits or funds to Kenergy for the benefit of Alcan, Kenergy hereby assigns such credits or funds to Alcan and shall cooperate with and assist Alcan with respect to any collections of amounts due from Big Rivers to Kenergy; *provided*, that Alcan shall reimburse Kenergy for any reasonable expenses Kenergy incurs in providing such cooperation or assistance.

5.2 Right to Discontinue Service. If Alcan fails to pay any monthly invoice rendered by Kenergy (or Big Rivers on behalf of Kenergy) within the time prescribed in Section 5.1, Kenergy may discontinue delivery of any or all Electric Services hereunder upon 120 Hours prior written notice to Alcan and Big Rivers of its intention to do so. Kenergy's discontinuance of such service for non-payment will not in any way affect, diminish or limit the obligations of Alcan to make all payments required under this Agreement, as and when due.

5.3 Default Interest. If any monthly invoice rendered by Kenergy (or Big Rivers on behalf of Kenergy) is not paid on the due date, interest will accrue and become payable by Alcan to Kenergy on all unpaid amounts at a rate of four percentage points over the Prime Rate commencing on the first day after the due date.

5.4 Payments Under Protest. If any portion of any monthly statement is disputed by Alcan, the disputed amount must be paid, under protest, when due. If the disputed amount of the payment is found to be incorrect, following receipt from Big Rivers, Kenergy (or Big Rivers on behalf of Kenergy) shall promptly cause to be refunded to Alcan the amount that was not then due and payable, together with interest at the Prime Rate commencing on the first day after the date of payment and accruing on each day thereafter until the date the refund is made.

5.5 Release and Indemnification.

(a) Alcan (i) shall release Kenergy from any and all claims Alcan may have against Kenergy for the failure of Big Rivers to satisfy its obligations under the Alcan Wholesale Agreement, and (ii) agrees to indemnify, hold harmless and defend Kenergy from and against any and all claims Big Rivers may assert against Kenergy in connection with any failure by Big Rivers to perform under the Alcan Wholesale Agreement, but only if Kenergy shall have fully performed its obligations set forth in clause (b) below.

(b) If Big Rivers shall default under the Alcan Wholesale Agreement, Kenergy shall immediately deliver to Alcan (i) a power-of-attorney with full power of substitution which shall designate Alcan or its designee as Kenergy's attorney-in-fact (which shall be coupled with an interest and irrevocable) for purposes of negotiating and prosecuting

any and all claims Kenergy may have against Big Rivers for a failure of Big Rivers to satisfy its obligations under the Alcan Wholesale Agreement and to file or prosecute any claim, litigation, suit or proceeding before any Governmental Authority in the name of Kenergy or in its own name, or take such other action otherwise deemed appropriate by Alcan for the purposes of obtaining legal or equitable relief as a result of the failure of Big Rivers to satisfy its obligations under the Alcan Wholesale Agreement and to compromise, settle, or adjust any suit, action or proceeding related to Big Rivers' failure to satisfy such obligations and to give such discharges or releases as Alcan may deem appropriate, and (ii) an assignment conveying to Alcan all of Kenergy's right, title and interest in and to any legal, equitable or other relief, including the recovery of damages and the grant of injunctive relief or other remedies to which Kenergy may be entitled with respect to Big Rivers' failure to satisfy its obligations under the Alcan Wholesale Agreement. The power-of-attorney and the assignment shall be in form and substance reasonably satisfactory to Alcan and shall be legally effective and enforceable under Kentucky or other Applicable Law.

5.6 No Waiver. No payment made by Alcan pursuant to this Article 5 will constitute a waiver of any right of Alcan to contest the correctness of any charge or credit.

5.7 No Payment. In no case shall Kenergy or Big Rivers be obligated to make a payment to Alcan in connection with the application of a credit to Alcan's Monthly Charges except to the extent otherwise expressly provided in Section 10.2.1(a) with respect to Undeliverable Energy Sales.

ARTICLE 6

EFFECTIVE DATE AND CONDITIONS

6.1 Effective Date. The obligations of the Parties under Article 2, Article 3, Article 4, Article 5, Section 7.3, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 14 and Section 16.5 shall not commence until the Effective Date. The "Effective Date" will occur on the first date each of the conditions set forth in Section 6.2 has been satisfied in full or waived in writing by the Party in whose favor such condition exists (to the extent one or more conditions is subject to being waived).

6.2 Conditions to Occurrence of Effective Date. The following shall be conditions to the occurrence of the Effective Date:

6.2.1 Each of the representations and warranties of the Parties contained in this Agreement and the representations and warranties of Big Rivers and Kenergy in the Alcan Wholesale Agreement will be true and correct as of the date hereof and the Effective Date (as though such representations and warranties were made at and as of the date hereof and the Effective Date), and each of the Parties shall have received a certificate to such effect from the other Party with respect to the other Party's representations and warranties in this Agreement and Alcan shall have received a certificate to such effect from Kenergy and Big Rivers in respect of their respective representations and warranties in the Alcan Wholesale Agreement.

6.2.2 The Unwind Transaction will have been consummated, including the termination of the agreements set forth on Schedule 6.2.2.

6.2.3 Each of the documents and agreements set forth in Schedule 6.2.3 will have been duly authorized, executed and delivered by the parties thereto, and all conditions precedent to the effectiveness of such agreements will have been satisfied or waived, and shall, if amended after the date hereof and prior to the Effective Date, be acceptable to Alcan.

6.2.4 The Alcan Wholesale Agreement shall be acceptable in form and substance to Alcan and shall not have been amended, or, if amended, shall be acceptable in form and substance to Alcan.

6.2.5 The Alcan Guarantee will have been duly authorized, executed and delivered by Alcan Parent and be in full force and effect.

6.2.6 Release documents releasing ~~of~~ the liabilities and obligations under the documents listed on Schedule 6.2.2 will have been duly authorized, executed and delivered by Big Rivers, Kenergy, Century, LG&E and Alcan, as applicable.

6.2.7 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary prior to start of the Service Period, other than (i) as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time after the Effective Date and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Kenergy has no reason to believe will not be timely obtained and in each case which do not prevent provision of Electric Services as described herein, and (ii) with respect to the approval of the KPSC or FERC, on the Effective Date, such approvals will have been duly given or issued, received and will be in full force and effect and unappealable, and all conditions therein will have been satisfied to the extent required to be satisfied by Kenergy or Big Rivers on or prior to the Effective Date.

6.2.8 The Alcan Wholesale Agreement, the Century Wholesale Agreement and the Century Retail Agreement will have been duly authorized, executed and delivered by the parties thereto and be in full force and effect and all conditions precedent to the effectiveness will have been satisfied or waived other than conditions within the control of Kenergy or conditions that automatically will become effective simultaneously with the Effective Date or the Unwind Transaction.

6.2.9 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary for the execution, delivery or performance by Alcan of its obligations under this Agreement.

6.2.10 RUS shall have consented to the Unwind Transaction and the New Transaction and to all arrangements and agreements required to implement the Unwind Transaction and the New Transaction.

6.3 Efforts to Satisfy Conditions to Effective Date. Each of the Parties shall use commercially reasonable efforts and act in good faith to satisfy all of the conditions set forth in Section 6.2 at the earliest practicable date (other than those which the applicable Party agrees to waive). At such time as Kenergy or Alcan believes such conditions have been satisfied, such Party shall notify the other Party in writing. The obligations of the Parties under this Section 6.3 will continue until the earlier of (a) such time as this Agreement terminates pursuant to Section 7.2, and (b) the Effective Date.

ARTICLE 7

TERM AND TERMINATION

7.1 Term. Subject to Section 6.1, this Agreement will become binding on the Parties on the date of execution and delivery by the Parties and will remain in full force and effect until December 31, 2023 (the "Term"), unless earlier terminated pursuant to the terms hereof.

7.2 Termination Prior to Effective Date. This Agreement may be terminated without cost or penalty prior to the occurrence of the Effective Date in accordance with this Section 7.2.

7.2.1 Termination for Failure to Satisfy Conditions to Effective Date. Either Party may terminate this Agreement without cost or penalty by providing five Business Days' prior written notice of termination to the other Party upon the failure of the conditions in Sections 6.2 to be satisfied in full or waived by the Person in whose favor the condition exists on or before October 1, 2008, [_____], or such later date as the Parties may agree, unless any such condition is satisfied or waived by the applicable Person within such five Business Day period.

7.2.2 Termination In Event Unwind Transaction Will Not Be Consummated. This Agreement may be terminated by either Party at any time prior to the Effective Date upon receipt of notice from LG&E or Big Rivers that either LG&E or Big Rivers does not intend to consummate the Unwind Transaction.

7.2.3 Termination Due to KPSC Modification. If the KPSC issues an order on any of the filings by Big Rivers or other Persons seeking necessary approvals for the Unwind Transaction and the New Transaction that disapproves or changes the pricing or other material terms of this Agreement or the Alcan Wholesale Agreement or Big Rivers' ability to recover costs from the Smelters or the Non-Smelter Ratepayers other than as contemplated in connection with the New Transaction, either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Big Rivers no later than three Business Days after the first to occur of the following: (i) the last date on which a petition for re-hearing may be filed if such a petition has not been filed, (ii) the date on which the KPSC issues an order denying the request for re-hearing for any petition for re-hearing that may have been filed during the allowed period and (iii) if a rehearing occurs, following the date on which an order on rehearing is issued.

7.2.4 Termination Due to Business Judgment.

(a) Either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Big Rivers if it determines in its business judgment, exercised in good faith, that based on information considered by it, including information provided by Big Rivers, Big Rivers' operations cannot produce during the first five years of the Service Period the charges projected in Big Rivers' financial model and filed with the KPSC in the application for approval of the New Transaction.

(b) Alcan may terminate this Agreement without cost or penalty by providing written notice of termination to Kenergy and Big Rivers if it determines in its business judgment, exercised in good faith, that there has been a material adverse change in the production facilities of Alcan or a material change in economic or business factors external to the terms of the New Transaction, that would have a material adverse financial effect on Alcan if the New Transaction is consummated.

7.2.5 Alcan Wholesale Agreement Termination. Kenergy may terminate this Agreement if Big Rivers terminates the Alcan Wholesale Agreement prior to the Effective Date.

7.2.6 Effect of Pre-Effective Date Termination. If this Agreement is terminated in accordance with this Section 7.2, Kenergy and Alcan acknowledge and agree that the Existing Alcan Agreement and the Kenergy/LG&E Contract and all other related documents and agreements will continue in full force and effect as if this Agreement had not been executed and delivered by the Parties.

7.3 Termination After the Effective Date. This Agreement may be terminated after the occurrence of the Effective Date in accordance with this Section 7.3.

7.3.1 Termination for Closing of Sebree Smelter.

(a) Alcan may terminate this Agreement as of a date not less than one year from the date it provides written notice (a "Notice of Termination for Closure") to Kenergy and Big Rivers of the termination of this Agreement in accordance with this Section 7.3 in connection with the termination and cessation of all aluminum smelting operations at the Sebree Smelter.

(b) No termination pursuant to Section 7.3.1(a) may be effective prior to December 31, 2010. If Century has given a "Notice of Termination for Closure" under the Century Retail Agreement prior to the delivery of Notice of Termination for Closure by Alcan and if the Transmission Upgrade (as defined in the Alcan Wholesale Agreement) has not been completed at the time of such termination, Alcan may not exercise its right to terminate this Agreement pursuant to this Section 7.3.1 with an effective date prior to December 31, 2011. To be effective, any Notice of Termination for Closure must be accompanied by a certificate of the president of Alcan Parent including a representation and warranty that it has made a business judgment in good faith to terminate and cease all aluminum smelting at the Sebree Smelter and has no current intention of re-commencing smelting operations at the Sebree Smelter.

7.3.2 Termination for Event of Default. This Agreement may be terminated following the occurrence and during the continuation of an Event of Default pursuant to Article 14.

ARTICLE 8

METERING

8.1 Metering Facilities. Kenergy will provide or cause to be provided metering facilities at the Point of Delivery which measure Hourly kW, kWh, kilovars, kilovar-hours and voltage fluctuation spectra.

8.2 Reading. Kenergy will read or cause to be read the meters at the Point of Delivery on the last date of each month (or such other date as may be agreed upon by the Parties).

8.3 Testing. Kenergy will test, or cause to be tested, the calibration of the meters at the Point of Delivery by comparison of accurate standards at least once every twelve months (or more often if so required by Applicable Law) and will give Alcan not less than five Business Days' prior notice of such testing. Alcan will have the right to observe and participate in all meter tests. Meters registering not more than plus or minus 1% inaccurate will be deemed to be accurate (unless Applicable Law establishes a standard more stringent than 1%, in which case, the more stringent standard will apply). The reading of any meter which will have been disclosed by tests to be inaccurate will be corrected for the 60 days before such tests (or for such shorter period if applicable) in accordance with the percentage of inaccuracy found by such tests. If any meter should fail to register for any period, the Parties and Big Rivers will make mutually agreed upon estimates for such period from the best information available. If Alcan requests a special meter test, Kenergy shall cause such test to be conducted; *provided, however*, that if any special meter test made at the request of Alcan discloses that the meters are not more than plus or minus 1% inaccurate, Alcan shall reimburse Kenergy for the reasonable cost of such test. In all other respects, meters through which Kenergy delivers Energy to Alcan shall be installed, operated, maintained and tested in accordance with all Applicable Law and Prudent Utility Practice.

ARTICLE 9

OPERATIONAL MATTERS

9.1 Operations and Operational Responsibility. In carrying out the requirements of this Agreement, each Party will comply with the reliability criteria, standards, guidelines and operating procedures of any national electric reliability organization, SERC, Applicable Law and any regional transmission organization (if applicable), and neither Party will be required to take any action in violation of any thereof.

9.1.1 Kenergy will operate and maintain or cause to be operated and maintained ~~all of the~~any facilities owned by it on the premises of Alcan.

9.1.2 Alcan will operate and maintain, or cause to be operated and maintained, all of the facilities and equipment owned by it.

9.2 Facilities Provided by Kenergy. Kenergy has caused to be furnished and installed, or shall cause to be furnished or installed, all of the facilities required for the delivery of Energy to the Point of Delivery, as well as the 161 kilovolt transmission lines required between the Point of Delivery and Alcan's electrical substation. Kenergy shall install and maintain, or shall cause to be installed and maintained, any and all interconnection equipment, metering, or substation equipment, and other equipment, including switching and protective equipment, necessary to deliver Energy to Alcan at the Point of Delivery. Kenergy will keep or cause to be kept, all such equipment in good working order, condition and repair (ordinary wear and tear excepted) such that all such equipment is capable of operating, consistent with Prudent Utility Practice, to the extent necessary to assure sufficient capability to take and use the Electric Services to be delivered by Kenergy to Alcan as provided for in this Agreement.

9.3 Facilities Provided by Alcan.

9.3.1 Alcan has provided or shall provide, without cost to Kenergy or Big Rivers all easements for rights-of-way upon Alcan's property at the Sebree Smelter (at such locations and of such dimensions as may be mutually agreed upon) for Big Rivers' transmission lines and for any Kenergy distribution lines.

9.3.2 Alcan has furnished and installed, shall furnish and install, or cause to be furnished or installed, such facilities and equipment as may be necessary to enable it to receive and use Energy purchased hereunder at and from Alcan's substation located adjacent to the Sebree Smelter, including such protective devices as may be reasonably necessary to protect Big Rivers' transmission system from disturbance caused by Alcan. Additional plans for equipment to be installed for such protection of the facilities of Kenergy or Big Rivers shall be submitted to Kenergy and Big Rivers for prior approval.

9.4 Curtailment. If Big Rivers determines in accordance with Prudent Utility Practice, or in compliance with any national electric reliability organization, SERC, Applicable Law and other regulation, any applicable regional transmission organization, or other applicable operating criteria or rules, that a System Emergency has occurred or is imminent, and after suspending or reducing deliveries to Persons purchasing interruptible Energy from Big Rivers, Kenergy may suspend or reduce the delivery of Energy hereunder and may cease to make available in whole or in part the Electric Services, in each case to the extent caused by, or that Kenergy or Big Rivers determines necessary or prudent under the circumstances to prevent or attempt to prevent, or counter or reduce the effects of, such System Emergency. Alcan acknowledges and agrees that any curtailment caused by a System Emergency (or for any other reason) that cannot be avoided after the suspension or reduction of deliveries to Persons purchasing interruptible Energy from Big Rivers will be effected in a non-discriminatory manner consistent with Big Rivers' then-current policies and procedures. Kenergy shall request Big Rivers notify Alcan as to the occurrence or threatened occurrence of any System Emergency or other event that may require curtailment, its cause and its impact on the delivery of Energy or the provision of Electric Services, as soon as practicable. Kenergy will not be obligated to supply Electric Services to the extent suspended or curtailed as a result of the System Emergency.

9.5 Ownership and Removal of Equipment. Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed, by either of the Parties hereto (or by Big Rivers) on or in the premises of the other Party (or Big Rivers) to receive service under this Agreement shall be and remain the property of the Party (or Big Rivers) owning and installing such equipment, apparatus, devices or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement or any extension thereof, the owner (including, if applicable, Big Rivers) of any equipment, apparatus, devices or facilities on the property of a Party shall have the right to enter upon the premises of that Party, and shall, within a reasonable time and at the sole expense of the owner, remove such equipment, apparatus, devices or facilities.

9.6 Right of Access. Alcan grants the duly authorized agents and employees of Kenergy and Big Rivers the right to reasonable access to the premises of Alcan to the extent reasonably required for the purposes of installing, repairing, inspecting, testing, renewing or exchanging any or all of its equipment located on the premises of Alcan, for reading or testing meters, or for performing any other work incident to the performance of this Agreement. Kenergy or Big Rivers shall make reasonable advance arrangements before entering the premises of Alcan.

9.6.1 Alcan shall use commercially reasonable efforts to properly protect the property of Kenergy or Big Rivers, located on its premises, and shall permit no Person to inspect or adjust the wiring and apparatus of Kenergy (or Big Rivers) except with Kenergy's consent. Neither Party assumes the duty or responsibility of inspecting the wiring or apparatus of the other Party.

9.6.2 Alcan grants to Kenergy and its agents and employees a license to enter Alcan's electrical substation located adjacent to the Sebree Smelter and upon Alcan's easements and rights-of-way to accomplish the purposes of this Agreement, *provided* that reasonable advance arrangements appropriate under the circumstances are made.

ARTICLE 10

COVENANTS

10.1 Surplus Sales.

10.1.1 Alcan may request that Kenergy sell Energy through Big Rivers which is surplus to Alcan's needs by delivering prior written notice to Kenergy and Big Rivers (a) identifying the portion of Base Demand per Hour Alcan requests Kenergy and Big Rivers sell and the associated times and duration of the requested sales, and (b) agreeing to curtail its demand per Hour so Alcan's actual demand and the Energy sold pursuant to this Section 10.1 ("Surplus Sales") is not expected to exceed the Base Demand per Hour. Kenergy and Big Rivers shall have no obligation to make Surplus Sales if the portion of Base Demand per Hour Alcan requests to be sold exceeds the Base Demand per Hour or is less than ten MW or not in integral multiples of one MW. For the avoidance of doubt, Surplus Sales shall not include sales of Economic Sales, Undeliverable Energy Sales or Potline Reduction Sales. Any request by Alcan

pursuant to this Section 10.1 shall be irrevocable following Big Rivers' entry into contractual obligations with a Third Party relating to such Surplus Sales.

10.1.2 Alcan acknowledges and agrees that Big Rivers and Kenergy shall have no obligation to use any efforts to make Surplus Sales if Big Rivers, in its sole discretion exercised in good faith, estimates the Net Proceeds therefrom would be less than \$1.00 per MWh in excess of the sum of the Base Variable Rate, the FAC Factor, the Non-FAC Purchased Power Adjustment Factor and the Environmental Surcharge Factor (each calculated on a per MWh basis). Alcan acknowledges that neither Kenergy nor Big Rivers will have any obligation to market or resell Energy pursuant to this Section 10.1 (a) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy, or (b) if Big Rivers is unable to sell any or all Energy as a result of transmission constraints (whether on or off Big Rivers' transmission system) or other constraints, including constraints imposed by Applicable Law.

10.1.3 For the avoidance of doubt, nothing in this Section 10.1 shall relieve Alcan of its obligation for the Base Energy Charge or the TIER Adjustment Charge or any other portion of the Monthly Charge pursuant to Article 4.

10.1.4 For any applicable Surplus Sale, (i) Alcan shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Surplus Sale over the estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale, and (ii) Kenergy shall pay to Alcan, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale over the actual income tax liability of Big Rivers relating to such Surplus Sale.

10.2 Undeliverable Energy Sales.

10.2.1 Alcan shall notify Kenergy and Big Rivers of the occurrence of (i) any event which results in damage to or destruction of plant or equipment that renders all or a portion of the Sebree Smelter unfit for normal use and limits Alcan's ability to engage in aluminum reduction operations thereat; (ii) Alcan's demand is initially reduced by at least 50 MW per Hour or more as a result thereof; (iii) such limitation is expected to continue for a period of 48 consecutive hours or longer; and (iv) the proximate cause of such casualty is not an intentional misconduct or willful misconduct of Alcan or any of its Affiliates. If and to the extent directed by Alcan, Kenergy immediately will request Big Rivers to use reasonable commercial efforts to sell an amount of Energy up to the corresponding reduction in Alcan's demand as a result of such event during the continuance of such limitation, subject to the same terms, conditions and limitations as set forth for Surplus Sales in Section 10.1. The sales of Energy described in this Section 10.2 shall be referred to as "Undeliverable Energy Sales." Alcan may provide such notice orally if followed promptly by written notice.

(a) For a period of up to six months from the date of the occurrence of such event, all of the Net Proceeds of any such sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge or, if in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Alcan. Upon Alcan providing a

certificate representing that the event can not be remedied with reasonable diligence within six months, Alcan's rights under this Section 10.2 shall be extended for an additional period up to three months.

(b) Upon expiration of the period of Alcan's rights under this Section 10.2, neither Kenergy nor Big Rivers shall have any obligations to sell or cause to be sold Energy to a Third Party which otherwise would be available for purchase by Alcan hereunder except as otherwise expressly required pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, or Section 10.3 as Potline Reduction Sales. Undeliverable Energy Sales may not be greater than Base Demand per Hour.

(c) If the circumstances described in clauses (i), (ii), and (iv) of this Section 10.2.1 do not continue for a period of 48 consecutive hours or longer, such sales of Energy will be treated as Surplus Sales under Section 10.1 unless Section 10.3 applies.

10.2.2 ALCAN HEREBY WAIVES ANY AND ALL FUTURE CLAIMS OR OTHER RIGHTS FOR DAMAGES FROM KENERGY OR BIG RIVERS IN CONNECTION WITH ANY EVENT GIVING RISE TO OR RELATING TO AN EVENT RESULTING IN ALCAN NOT BEING ABLE TO ACCEPT ENERGY AS CONTEMPLATED BY SECTION 10.2.1, *PROVIDED* THAT THIS WAIVER SHALL NOT APPLY TO CLAIMS FOR DAMAGES OR OTHER REMEDIES BROUGHT BY THIRD PARTIES WHICH ARE NOT AFFILIATES, OFFICERS, DIRECTORS OR EMPLOYEES OF ALCAN. THIS WAIVER SHALL ALSO NOT APPLY TO CLAIMS FOR DAMAGES OR OTHER REMEDIES FROM KENERGY OR BIG RIVERS BROUGHT BY ALCAN OR ITS SUBROGEE IN CONNECTION WITH A CIRCUMSTANCE WHERE (I) ALCAN IS UNABLE TO ACCEPT ENERGY AS CONTEMPLATED IN SECTION 10.2.1, (II) BIG RIVERS IS UNABLE TO DELIVER ENERGY TO THE SMELTERS, AND (III) BIG RIVERS IS UNABLE TO MAKE UNDELIVERABLE ENERGY SALES FROM ITS OWN GENERATING FACILITIES PURSUANT TO SECTION 10.2.1 ALL AS A RESULT OF INTENTIONAL MISCONDUCT OR WILLFUL MISCONDUCT OF BIG RIVERS.

10.2.3 For any applicable Undeliverable Energy Sale, (i) Alcan shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Undeliverable Energy Sale over the estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale, and (ii) Kenergy shall pay to Alcan, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale over the actual income tax liability of Big Rivers relating to such Undeliverable Energy Sale.

10.3 Potline Reduction Sales.

10.3.1 Alcan may request Kenergy cause Big Rivers to sell 115 MW (plus or minus 10 MW) per Hour to Third Parties (such sales of Energy are referred to as "Potline Reduction Sales"), such amount subject to Section 10.3.2 below, on either a Firm basis or a System-Firm basis by delivering not less than 30 days' prior notice to Kenergy and Big Rivers

(which notice Kenergy and Big Rivers shall keep confidential) if (i) Alcan has ceased or will cease all aluminum smelting operations on one and only one of its potlines at the Sebree Smelter (a “Potline Reduction”); (ii) Alcan is reasonably likely to be able to continue aluminum smelting operations with respect to all of its other potlines at the Sebree Smelter as a result of the cessation of aluminum smelting operations on the potline referred to in clause (i); (iii) Alcan in good faith reasonably estimates the duration of such cessation will equal or exceed 12 months; and (iv) no Potline Reduction Sales have been made for a period of twelve consecutive months prior to the date of such notice. Such notice also shall state the requested duration of the sales of Energy and must be accompanied by a certificate of an officer of Alcan Parent certifying as to the matters set forth in clauses (i), (ii), (iii), and (iv) above.

10.3.2 Alcan, Kenergy and Big Rivers shall reasonably cooperate on a schedule for the graduated reduction and, in the case of a potline restoration, the graduated increase in Alcan’s demand in such amounts and over a period of time as is mutually satisfactory.

10.3.3 Alcan may not withdraw its request for Potline Reduction Sales to the extent that Big Rivers has a legally binding agreement with a Third Party for Potline Reduction Sales (a “Potline Reduction Sales Agreement”), provided that Alcan may at any time terminate the Potline Reduction and assume responsibility for acquiring Market Energy required during the remainder of the Potline Reduction Sales Agreement.

10.3.4 Alcan acknowledges that neither Kenergy nor Big Rivers will have any obligation to market or resell Energy pursuant to this Section 10.3 (i) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy available for sale or (ii) to the extent Big Rivers is unable to make Potline Reduction Sales as a result of transmission constraints (whether on or off Big Rivers’ transmission system) or other constraints, including constraints imposed by Applicable Law.

10.3.5 Kenergy and Big Rivers shall consult with Alcan and agree on the Potline Reduction Sales that will be made on a Firm basis or a System Firm basis and the terms of same. To the extent Alcan requests the Potline Reduction Sales be made on a Firm basis, Alcan agrees that if during the term of such sale or sales Big Rivers is required to purchase replacement Energy or otherwise make payments to meet such Potline Reduction Sales on a Firm basis, Alcan will reimburse Kenergy for the benefit of Big Rivers the full cost of such actions and indemnify Kenergy and Big Rivers for any costs, obligations or liabilities incurred by either of them, including liabilities to Third Parties.

10.3.6 All of the Net Proceeds of any Potline Reduction Sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge from the effective date of the notice pursuant to Section 10.3.1 until the Cut-Off Date or, if such amount is in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Alcan. The “Cut-Off Date” shall mean the earliest to occur of (a) the first day of the 49th Billing Month after the effective date of the notice given under Section 10.3.1, (b) a date specified in a written notice, if any, by Alcan to Kenergy and Big Rivers, (c) the earlier of the date (i) one year after the date Alcan commences smelting operations with respect to one or more pots on the suspended potline or (ii) all Potline Reduction Sales Agreements have been terminated or expired after Alcan commences smelting operations with respect to one or more pots on the

suspended potline. Sales of Energy after the Cut-Off Date shall be Surplus Sales pursuant to Section 10.1 and not Potline Reduction Sales pursuant to this Section 10.3. Alcan agrees that it shall not be permitted to extend the term of Potline Reduction Sales beyond forty-eight months, provided that nothing in this Section 10.3.6 shall preclude Alcan from providing a new notice under Section 10.3.1 after aluminum smelting operations at the suspended potline have been restored.

10.3.7 For any Potline Reduction Sale, (i) Alcan shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Potline Reduction Sale over the estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale, and (ii) Kenergy shall pay to Alcan, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale over the actual income tax liability of Big Rivers relating to such Potline Reduction Sale.

10.3.8 For the avoidance of doubt, (i) Potline Reduction Sales shall not include Surplus Sales, Economic Sales or Undeliverable Energy Sales; (ii) nothing in this Section 10.3 shall be construed to relieve Alcan of its obligation with respect to the Base Monthly Charge, the TIER Adjustment or other components of the Monthly Charge payable pursuant to Article 4; and (iii) nothing in this Agreement precludes Undeliverable Energy Sales under Section 10.2 from becoming Potline Reduction Sales if all conditions of this Section 10.3 are met.

10.4 Resale. Alcan may not resell or cause to be resold any Electric Services purchased from Kenergy under this Agreement, except as expressly permitted in this Agreement or with the prior written consent of Kenergy and Big Rivers, which may be withheld by either of them in their sole discretion. Alcan shall consume all Energy purchased under this Agreement in connection with the operation of its Sebree Smelter except as expressly permitted pursuant to this Agreement.

10.5 Refund of Income Tax Estimated for Net Proceeds. Kenergy shall return to Alcan any income taxes deducted in calculating the Net Proceeds of a sale of Energy by Big Rivers which Big Rivers ultimately determines are not to be required to be paid due to the application of a net operating loss carry-forward of Big Rivers that existed on the Effective Date and that otherwise would have expired unused.

ARTICLE 11

UNCONTROLLABLE FORCES

11.1 Occurrence of an Uncontrollable Force. No Party will be considered to be in breach or default in the performance of any of its obligations under this Agreement if the failure of performance is due to an Uncontrollable Force, except as otherwise provided in this Article 11. If either Party is unable, in whole or in part, by reason of Uncontrollable Force to carry out its obligations, then the obligations of the Parties, to the extent that they are affected by such Uncontrollable Force, will be suspended during the continuance of any inability so caused, but

for no longer period. A Party will not be relieved of liability for failing to perform if such failure is due to causes arising out of its own negligence or willful acts or omissions.

11.2 Mitigation. A Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise due diligence to remove or remedy such inability as promptly as reasonably possible. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

11.3 Notice of Uncontrollable Force. A Party shall notify the other Party at the earliest practicable time following (i) the occurrence of any Uncontrollable Force which renders such Party incapable of performing hereunder or (ii) the time at which such Party has reason to expect that such an Uncontrollable Force is imminent. Kenergy also shall notify Alcan if it receives notice from Big Rivers that Big Rivers anticipates that it will be unable to perform its obligations to Kenergy under any contract or agreement that affects Kenergy's performance under this Agreement due to an Uncontrollable Force and Alcan is not an additional addressee of such notice.

11.4 Payment Obligations. Notwithstanding anything in this Agreement to the contrary, the occurrence of an Uncontrollable Force shall not relieve Alcan of its payment obligations under Article 4, including its payment obligations with respect to the Base Energy Charge. ALCAN ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF SECTION 10.1 (SURPLUS SALES), SECTION 10.2 (UNDELIVERABLE ENERGY SALES) AND SECTION 10.3 (POTLINE REDUCTION SALES) SHALL CONSTITUTE ALCAN'S SOLE AND EXCLUSIVE REMEDIES IN THE EVENT THAT ALCAN IS UNABLE TO RECEIVE ENERGY INCLUDING IF THAT INABILITY IS CAUSED BY AN UNCONTROLLABLE FORCE.

ARTICLE 12

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of Kenergy. Kenergy hereby represents and warrants to Alcan as follows:

12.1.1 Kenergy is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligation hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the Term hereof.

12.1.2 The execution, delivery and performance of this Agreement by Kenergy have been duly and effectively authorized by all requisite corporate action.

12.2 Representations and Warranties of Alcan. Alcan hereby represents and warrants to Kenergy as follows:

12.2.1 Alcan is a corporation duly organized and validly existing and in good standing under the laws of the State of Texas, is authorized to do business in the Commonwealth

of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the Term hereof.

12.2.2 The execution, delivery and performance of this Agreement by Alcan have been duly and effectively authorized by all requisite corporate action.

ARTICLE 13

ADDITIONAL AGREEMENTS

13.1 Regulatory Proceedings.

13.1.1 Proceedings That Affect Rates.

(a) The Parties acknowledge and agree that

(i) Big Rivers shall have the right to seek KPSC approval for changes to the Non-Smelter Member Rates from time to time, but Big Rivers shall not seek an increase in its base rates to take effect before January 1, 2010, excluding any roll-in to Big Rivers' base rates of costs that would otherwise be recovered by the Environmental Surcharge or the FAC; and

(ii) Big Rivers will not seek to implement a wholesale rate reduction other than the Rebate to its Members under the procedures available in KRS 278.455 without the consent of Alcan;

provided that this commitment by Big Rivers will have no effect on the availability to Kenergy of the procedures in KRS 278.455 to flow-through any wholesale rate decrease to the Non-Smelter Ratepayers.

(b) Alcan shall have the right to intervene and participate in any proceeding that may affect rates at the KPSC or FERC or before any other Governmental Authority. Neither Kenergy nor Alcan will support or seek, directly or indirectly, from any Governmental Authority, including the KPSC, any challenge to or change in the rate formula set forth in this Agreement or other terms and conditions set forth herein, including the relationship of the Large Industrial Rate to amounts payable by Alcan pursuant hereto, except that any Party may initiate or intervene in a proceeding to (i) clarify, interpret or enforce this Agreement, or (ii) challenge the applicable rate for Transmission Services should those services be unbundled for purposes of calculating the Large Industrial Rate. For the avoidance of doubt, Alcan's intervention and participation in a regulatory proceeding involving cost of service issues relating to the rates of the Non-Smelter Ratepayers shall not be considered a challenge to the rate formula.

(c) If *Commonwealth of Kentucky ex rel. Gregory D. Stumbo, Attorney General v. Public Service Comm'n and Union Light, Heat and Power Co.*, Franklin Circuit Court, C.A. No. 06-CI-269, or any Applicable Law relating thereto restricts the amounts recovered under the FAC, Appendix A, or the Environmental Surcharge Rider, then Kenergy,

Alcan, Big Rivers and, if the Century Retail Agreement is then in effect, Century, shall negotiate in good faith to amend this Agreement (and other agreements entered into in connection herewith) to restore the relative rights and economic benefits thereunder. If such parties are unable to reach an agreement on such amendments, then this Section 13.1.1 shall not restrict Big Rivers from seeking KPSC approval for an increase to its base rates or an amendment to the FAC, Appendix A, or the Environmental Surcharge Rider.

13.1.2 Kenergy Retail Fee. Kenergy or Alcan may seek approval of any changes to the Retail Fee not earlier than ten years after the Effective Date of this Agreement.

13.1.3 KPSC Jurisdiction. Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC over Kenergy, Big Rivers or the rates, terms and conditions of Electric Service to Alcan.

13.1.4 Notice of Material Filings. Kenergy shall provide or cause to be provided to Alcan a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff, or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

13.2 Audit Rights. Kenergy will permit Alcan to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Kenergy relating to its service to Alcan under this Agreement, including scheduled usage, meter records and billing records. Kenergy shall retain all documentation applicable to service to Alcan under this Agreement for a period of three years beyond the date of the service. Nothing in this Section 13.2 shall obligate Kenergy to disclose attorney-client privileged information.

13.3 Alcan Credit Support. Alcan shall (i) if the rating of the unenhanced, unsecured debt obligations of Alcan Parent with Standard & Poor's is not "A+" or higher (and in addition, if Alcan Parent has such a rating from Moody's, that rating with Moody's is not "A1" or higher), provide and maintain credit support in the form of a letter of credit from a bank rated "A+" or higher, or other credit support acceptable to Big Rivers and Kenergy, in an amount equal to the amounts estimated by Big Rivers to be due to Big Rivers and Kenergy with respect to Alcan's obligations under this Agreement for a period of two months and any amount which Big Rivers estimates reasonably could be due with respect to taxes relating to any sale of Energy pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales ("Potential Tax Liability"); and (ii) cause Alcan Parent to guarantee to Big Rivers and Kenergy the payment and performance of all obligations of Alcan under this Agreement, including Potential Tax Liability, and the other documents entered into by Alcan and its affiliates in connection with the New Transaction pursuant to a Guarantee Agreement executed by Alcan Parent in favor of Big Rivers and Kenergy which shall be satisfactory in form and substance to Big Rivers and Kenergy (the "Alcan Guarantee"). At the request of Big Rivers or Kenergy, Alcan will maintain the Alcan Guarantee until closure of all applicable tax years of Big Rivers. At the request of Alcan, Kenergy shall request that Big Rivers provide Alcan with information as to the amount and calculation of the estimated Potential Tax Liability and documentation in support thereof.

13.4 Patronage Capital.

13.4.1 Kenergy is a non-profit Kentucky corporation that, during any calendar year, may realize revenues from its own operations in excess of related expenses (“margins”). For financial accounting purposes, such margins have been and shall continue to be recorded as patronage capital held for the benefit of Kenergy’s customers. Such patronage capital shall be recorded by Kenergy for the benefit of Alcan as earned during the term of this Agreement.

13.4.2 Kenergy will not permit any amendments or modifications of its Bylaws that would adversely affect the rights of Alcan to distributions of patronage capital or payments on account of property rights of the Members distributed by Big Rivers to Kenergy.

13.4.3 Kenergy agrees that Alcan will share on a nondiscriminatory basis in the allocations of patronage capital and payments on account of property rights of Members distributed by Big Rivers to Kenergy and that such allocations shall be promptly distributed to Alcan.

13.4.4 The expiration or earlier termination of this Agreement shall not modify or revoke the then existing entitlement of Alcan to allocations or distributions of patronage capital or the entitlement of Alcan to payments on account of property rights as set forth in this Section 13.4 when such property rights are determined.

13.4.5 Kenergy and Alcan agree that the provisions of this Section 13.4 are not the exclusive provisions for determining Alcan’s entitlement to distributions by Kenergy of patronage capital or payments on account of property rights.

13.5 Post-Termination Obligation. Subject to Section 13.7, upon termination of this Agreement, neither Kenergy nor Big Rivers will have any contractual obligation under this Agreement to supply any capacity, Energy or other related services to Alcan.

13.6 Negotiation of Replacement Agreement. If this Agreement has not been terminated earlier, Kenergy shall negotiate in good faith with Alcan and Big Rivers, no later than January 1, 2023, concerning rates and terms and conditions for new power supply arrangements following the expiration of this Agreement on December 31, 2023.

13.7 Entitlement to Large Industrial Rate. If this Agreement terminates pursuant to a closure of the Sebree Smelter as set forth in Section 7.3.1 and Alcan continues non-smelting operations, Alcan will be entitled to be served by Kenergy under the Large Industrial Rate; *provided, however*, the capacity and associated Energy served under the Large Industrial Rate shall not exceed 15 MW.

ARTICLE 14

EVENTS OF DEFAULT; REMEDIES

14.1 Events of Default. Each of the following constitutes an “Event of Default” under this Agreement:

14.1.1 Failure by a Party to make any payment in accordance with this Agreement within three Business Days following the non-performing Party's receipt of written notice of the non-performing Party's default in its payment obligation;

14.1.2 Failure of a Party to perform any material duty imposed on it by this Agreement (other than a failure to make a payment when due) within 30 days following the non-performing Party's receipt of written notice of the non-performing Party's breach of its duty hereunder;

14.1.3 Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Article 16;

14.1.4 The occurrence and continuance of an "Event of Default" under the Alcan Wholesale Agreement;

14.1.5 Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;

14.1.6 Assignment by a Party for the benefit of its creditors;

14.1.7 Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment; or

14.1.8 Failure, inability or refusal of Kenergy to cure a breach or default by Kenergy under the Alcan Wholesale Agreement which gives rise to a termination of the Alcan Wholesale Agreement, or any termination by Kenergy of the Alcan Wholesale Agreement in breach or default thereof.

14.2 Remedies, General. Except as otherwise provided in this Agreement, following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Unless otherwise provided herein, remedies provided in this Agreement are cumulative, unless specifically designated to be an exclusive remedy and nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein provided that:

14.2.1 UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGER, EMPLOYEES OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS EMPLOYEES OR AGENTS WHETHER IN TORT, CONTRACT OR OTHERWISE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO

DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

14.2.2 Neither Party may terminate this Agreement as a result of an “Event of Default” under the Alcan Wholesale Agreement if the actions or omissions of Kenergy caused such “Event of Default”; *provided*, that either Party may terminate this Agreement if the Alcan Wholesale Agreement is terminated for any reason.

14.2.3 Unless otherwise provided herein, if a Party is in breach of its obligations under this Agreement but such breach does not constitute, or would not with the passage of time or the giving of notice constitute, an Event of Default and this Agreement does not provide any other remedy ~~therefor~~therefor, if such breach has not been cured by the breaching Party within 60 days after receiving written notice from the non-breaching Party setting forth, in reasonable detail, the nature of such breach, the non-breaching Party may bring a claim for money damages with respect to such breach and exercise its rights under Section 15.2, but will not be entitled to terminate, or seek to terminate, this Agreement, or suspend performance of its obligations and duties hereunder as a result of such breach.

ARTICLE 15

DISPUTE RESOLUTION

15.1 Resolution Meetings. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting among an authorized representative of each of the Parties and Big Rivers to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section 15.1 shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement.

15.2 Right to Pursue Rights and Remedies. Absent resolution of a dispute pursuant to Section 15.1, the Parties may pursue at any Governmental Authority all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement. Notwithstanding the provisions of this Article 15, each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

ARTICLE 16

GENERAL PROVISIONS/SUCCESSORS AND ASSIGNS

16.1 Binding Nature. This Agreement will inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. No interest in this Agreement may be transferred or assigned by either Party, in whole or in part, by instrument or operation of law, without the prior written consent of the other Party, except as provided in

Section 16.4, and except that, subject to satisfaction of the conditions of Section 16.2, assignment may be made by either Party to such Person as acquires all or substantially all the assets of the assigning Party or which merges with or acquires all or substantially all of the equity of such Party. When consent is required, consent may not be unreasonably withheld, conditioned or delayed.

16.2 Limitation on Assignment. In no event may either Party assign this Agreement (including as part of a sale of all or substantially all the assets of the assigning Party or a merger with or purchase of substantially all the equity interests of such Party) (i) to any Person that does not have adequate financial capacity as demonstrated to the reasonable satisfaction of the non-assigning Party or that would otherwise be unable to perform the obligations of the assigning Party pursuant to this Agreement or (ii) on any terms at variance from those set forth in this Agreement except as agreed to in writing by the Parties.

16.3 Duties. No permitted assignment or transfer will change the duties of the Parties, or impair the performance under this Agreement except to the extent set forth in such permitted assignment and approved in writing by the Parties. No Party is released from its obligations under this Agreement pursuant to any assignment, unless such release is granted in writing.

16.4 Financing Lien. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

16.5 Big Rivers Restructuring.

16.5.1 In connection with a Restructuring, Kenergy, Alcan, Century and Big Rivers shall determine a good faith estimate of the cumulative increase or decrease in the TIER Adjustment that such Restructuring would cause in each Fiscal Year over the 24-Billing Month period following the date of the effectiveness of Restructuring (the "Restructuring Amount"). Any change in the Large Industrial Rate approved at the time of or in connection with the Restructuring shall not be considered as an effect of the Restructuring. Except for the restrictions set forth in Section 13.1, nothing in this Agreement, including this Section 16.5, shall limit the ability of Big Rivers to seek a change in or modification of the Large Industrial Rate in connection with the occurrence of a Restructuring.

16.5.2 The Monthly Charge in each month of the 48-month period following the effectiveness of the Restructuring shall be increased or decreased, as applicable, by an amount equal to 1/48th of the product of the Restructuring Amount and the Applicable Percentage; *provided*, that the application of this Section 16.5 shall not result in Alcan paying less than the sum of (a) ~~the sum of the Large Industrial Rate, the FAC Factor and the Non-FAC Purchased Power Adjustment Factor,~~ and (b) ~~the product of clause (a) and the Environmental Surcharge Factor,~~ all on a per MWh basis, for a customer with a 98% load factor with respect to Base Monthly Energy in any Fiscal Year. Sample calculations for determining a Restructuring Amount are set forth in Exhibit A.

16.5.3 This Section 16.5 shall not be applicable to any Restructuring undertaken in response to the loss of revenue caused by the termination of the Century Retail Agreement.

16.5.4 If Alcan, Century, Kenergy and Big Rivers are not able to determine a mutually agreeable estimate of the Restructuring Amount, then Kenergy, Alcan, Century or Big Rivers may petition to the KPSC to determine the Restructuring Amount.

ARTICLE 17

MISCELLANEOUS

17.1 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

17.2 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue will lie for the resolution of any ~~related~~ disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC any matter properly within FERC's jurisdiction.

17.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

17.4 Amendments.

17.4.1 This Agreement may be amended, revised or modified by, and only by, a written instrument duly executed by both Parties.

17.4.2 The Parties acknowledge and agree that nothing in this Agreement shall limit the right of Big Rivers to file changes to the OATT, or limit the right of any Party to challenge any aspect of the OATT, including the applicable loss factor, the transmission service rates or any other transmission or ancillary service issue presented to FERC.

17.5 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to fulfill its obligations under this Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned, or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably

Facsimile: (514) 848-1439
Attn: Director Energy

If to Big Rivers: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Facsimile: _____(270) 827-2558
Attn: President and CEO

For notices pursuant to Section 14.1:

If to Kenergy: Kenergy Corp.
6402 Old Corydon Road
Henderson, Kentucky 42420
Facsimile: _____
Attn: President and CEO

With a copy to: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Facsimile: _____(270) 827-2558
Attn: President and CEO

If to Alcan: Sebree Smelter
Alcan Primary Products Corporation
9404 State Route 2096
Henderson, Kentucky 42452-9735
Facsimile: _____
Attn: Plant Manager

17.7 Severability. If any clause, sentence, paragraph or part of this Agreement should for any reason be finally adjudged by any court of competent jurisdiction to be unenforceable or invalid, such judgment will not affect, impair or invalidate the remainder of this Agreement but will be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which the judgment is rendered, unless the loss or failure of such clause, sentence, paragraph or part of this Agreement materially adversely affects the benefit of the bargain to be received by either or both of the Parties, in which event the Parties shall promptly meet and use their good faith best efforts to renegotiate this Agreement in such a fashion as will restore the relative rights and benefits of both Parties or, absent such renegotiation, the Party that was so materially adversely affected will be entitled, in its discretion, to terminate this Agreement.

17.8 Survival. Each provision of this Agreement providing for payment for Electric Services and any other amounts due hereunder, distribution of patronage capital, assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, indemnification or payment of other liabilities will survive termination of this

Agreement to the full extent necessary for their enforcement and the protection of the Party in whose favor they run.

17.9 Merger. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the matters addressed herein and supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement except as otherwise expressly provided in Section 6.1 and Section 7.2.6 hereof.

17.10 Further Assurances. The Parties shall execute such additional documents including a consent to assignment, legal opinions, estoppel letters or similar documents, and shall cause such additional actions to be taken as may be required or, in the judgment of any Party, be necessary or desirable, to effect or evidence the provisions of this Agreement and the transactions contemplated hereby.

17.11 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument and each counterpart will have the same force and effect as if they were one original.

17.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard or care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement other than Big Rivers.

17.13 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

17.14 No Agency. This Agreement is not intended, and may not be construed to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party will have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or otherwise bind, the other Party.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

KENERGY CORP.

By: _____
Name:
Title:

ALCAN PRIMARY PRODUCTS CORPORATION

By: _____
Name:
Title:

APPENDIX A
Non-FAC Purchased Power Adjustment Factor

- A. Base Monthly Energy Sales to the smelters are subject to a Non-FAC Purchased Power Adjustment (PPA) to recover purchased power costs that the smelters have agreed to pay and are not otherwise included in Big Rivers' Fuel Adjustment Clause (FAC).
- B. Definitions

Definitions have the meanings given to them in the Agreement except as provided below:

“Account” is the specified numbered account as set forth in the Uniform System of Accounts – Electric, promulgated under Bulletin 1767B-1 by the Rural Utilities Service, an agency of the U.S. Department of Agriculture.

“SEPA” is the Southeastern Power Administration, an agency of the U.S. Department of Energy, or any successor agency.

“Wholesale Smelter Agreements” are the Alcan Wholesale Agreement and the Century Wholesale Agreement.

- C. Determination of the PPA

- (1) The monthly amount computed for all wholesale sales to which this PPA is applicable shall be increased or decreased at a rate per kWh in accordance with the following formula:

$$PPA = PP(m)/S(m) - PP(b)/S(b)$$

Where PPA is the PPA Factor for the month; PP(m) is the current Purchased Power Cost for the month; S(m) is the current applicable sales; PP(b) is the Purchased Power Cost for the base period; and S(b) is the sales in the base period. For the initial base period, PP(b)/S(b) (the “Purchased Power Base”) is \$0.00175.

- (2) Purchased Power Costs (PP) shall be the sum of:
- (a) The total cost of power purchased (including purchases from SEPA) that is expensed by Big Rivers to Account 555 (excluding those costs that are recovered through Big Rivers' FAC and excluding costs expensed to Account Nos. 555.150, 555.151, and 555.152 regarding Big Rivers' cost share of HMP&L's Station Two) including transmission and related costs that are expensed to Account 565;
 - (b) The total amount of any adjustments to Purchased Power Costs attributable to prior months, whether positive or negative; and
 - (c) The total cost of amounts credited by Big Rivers to Kenergy with respect to voluntary curtailments under Section 4.13.2 of either Smelter Wholesale Agreement to allow Big Rivers to avoid market priced purchases of power.

Less:

- (d) The total cost of power purchased directly associated with sales (including related system energy losses) by Big Rivers either to non-Member purchasers of power or to Kenergy under either Wholesale Smelter Agreement for resale to either Smelter as energy products other than Base Monthly Energy, assuming SEPA power followed by the lowest cost power, whether generated or purchased, shall be allocated to Applicable Sales.
- (3) Applicable Sales (S) shall be all kilowatt-hours sold at wholesale by Big Rivers (a) to its Members under all electric rate schedules, including the Large Industrial Rate, for resale to Kentucky ratepayers (other than the Smelters), and (b) to Kenergy as Base Monthly Energy as defined in each of the Wholesale Smelter Agreements.
- (4) The current month (m) shall be the second month preceding the month in which the PPA Factor is billed.

SCHEDULE 2.3.2(a)

INTERRUPTIBLE ENERGY

(a) Interruptible Energy. Kenergy may purchase from Big Rivers on a System Firm basis up to 10 MW per Hour of Interruptible Energy for resale to Alcan, subject to availability, the scheduling requirements and Big Rivers' right to interrupt the sale and delivery of such Energy, all as set forth in this Section (a).

(i) Confirmation. Not less than seven days prior to the beginning of each fiscal quarter of the Service Period (or the Effective Date with respect to the initial fiscal quarter of the Service Period), Big Rivers shall provide to Kenergy and Alcan a confirmation setting forth the price or prices and other terms and conditions ("Interruptible Energy Terms") under which Interruptible Energy may be available during each Hour of the subject fiscal quarter. If Big Rivers fails to provide a timely confirmation with respect to any fiscal quarter, the Interruptible Energy Terms for the prior fiscal quarter shall remain in effect. Big Rivers and Kenergy shall obtain Alcan's consent to each confirmation as a condition to Big Rivers' obligation to make Interruptible Energy available to Kenergy for scheduling during each fiscal quarter.

(ii) Scheduling of Interruptible Energy. The provision of Interruptible Energy shall be subject to the following requirements:

(A) At the request of Alcan, Kenergy shall submit to Big Rivers, no later than 3:00 PM on the second Business Day prior to the day of the scheduled delivery (or such shorter period agreed to by Big Rivers), a schedule for up to 10 MW of Interruptible Energy, in integral multiples of one MW per Hour, for the times and durations specified in the schedule.

(B) Big Rivers shall be under no obligation to accept the schedule submitted by Kenergy or to deliver the Interruptible Energy so scheduled, but shall, upon receipt of such schedule, notify Kenergy and Alcan by 9:00 AM of the Business Day prior to the day of scheduled delivery of the number of MW, if any, Big Rivers is willing to deliver and the hour and duration when the delivery shall take place (the "Response").

(C) Subject to Big Rivers' rights to interrupt in accordance with Section (a)(iii) below, Big Rivers shall sell and deliver the volume of Interruptible Energy at the time and for the duration specified in the Response (the "Scheduled Interruptible Energy").

(iii) Interruption of Scheduled Interruptible Energy. The sale and delivery of Scheduled Interruptible Energy may be interrupted by Big Rivers at any time (a "Permitted Interruption") upon the following terms and conditions:

(A) Upon a determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy will not be available on a System Firm basis, Big Rivers may implement a Permitted Interruption of all or any portion of the Scheduled Interruptible Energy by providing a notice of interruption ("Notice of Interruption") to Kenergy and Alcan at least 30 minutes in advance of the estimated interruption;

(B) A Notice of Interruption may be made orally but shall be followed by facsimile or other electronic means acceptable to Kenergy and Alcan; and

(C) Upon an after-the-fact determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy was not available on a System Firm basis during a prior hour or hours, and notwithstanding that no Notice of Interruption had been issued, Big Rivers may implement retroactively a Permitted Interruption of Scheduled Interruptible Energy for such prior hour or hours, to the extent that such Scheduled Interruptible Energy was not available on a System Firm Basis.

Upon meeting the conditions required for a Permitted Interruption, Big Rivers shall have no obligation to sell and deliver the amount of Scheduled Interruptible Energy designated to be interrupted in the applicable Notice of Interruption. In connection with a Permitted Interruption, Big Rivers may provide, but shall not be required to provide, an opportunity for Kenergy to acquire Firm Energy, in lieu of the Scheduled Interruptible Energy, for resale to Alcan pursuant to the terms and conditions of Section 2.3.2(b). In the case of a Permitted Interruption that is implemented retroactively, the Energy delivered by Big Rivers shall be deemed to have been delivered as Backup Energy pursuant and subject to Sections 2.3.3 and 4.4.1. Big Rivers shall not be limited in the number of times that it may issue a Notice of Interruption or may implement a Permitted Interruption, or of the amount or duration of any Permitted Interruption.

(iv) Allocation of Permitted Interruptions. If Kenergy has arranged for Scheduled Interruptible Energy during any Hour to Kenergy under this Agreement for resale to Alcan and to Kenergy under the Century Wholesale Agreement for resale to Century and Big Rivers determines that it will be unable or was unable during any prior Hour or Hours, to supply the full amount of Scheduled Interruptible Energy to Kenergy for both Alcan and Century, then:

(A) Big Rivers may provide a Notice of Interruption and implement a Permitted Interruption to Kenergy with respect to the Scheduled Interruptible Energy for Alcan or with respect to "Scheduled Interruptible Energy" as defined in the Century Retail Agreement, or any combination thereof; and

(B) Big Rivers may retroactively implement Permitted Interruptions for any Hour to Kenergy for Alcan and Century in equal amounts, taking into consideration any Permitted Interruption to Kenergy that had previously been implemented for the same Hour under part (A) above.

(v) Termination of Interruptions. During any period of Interruption, Big Rivers may notify Kenergy and Alcan of its willingness to terminate the Interruption and resume the delivery of Scheduled Interruptible Energy at the Interruptible Energy Terms. Upon notification from Big Rivers terminating the Interruption, Kenergy shall purchase from Big Rivers and resell and deliver Scheduled Interruptible Energy to Alcan at the beginning of the next Hour that starts at least 10 minutes following such notice.

SCHEDULE 4.11(c)
REFERENCE ANNUAL FUEL COSTS PER MWH

<u>Year</u>	<u>Fuel Cost per MWH Sales*</u>
2008	15.68
2009	16.44
2010	16.74
2011	17.23
2012	17.65
2013	18.25
2014	17.82
2015	18.37
2016	18.38
2017	18.74
2018	18.43
2019	19.18
2020	19.04
2021	19.90
2022	19.23
2023	19.74

* Includes cost of Startups

**SCHEDULE 4.13.5
MODEL FAC FACTOR AMOUNTS**

<u>Year</u>	<u>FAC Factor per MWH Sales</u>
2009	5.84
2010	7.05
2011	7.60
2012	7.81
2013	8.31
2014	8.99
2015	9.01
2016	9.41
2017	9.45
2018	9.75
2019	9.64
2020	10.11
2021	10.30
2022	10.39
2023	10.44

**SCHEDULE 6.2.2
LISTING OF OBLIGATIONS TERMINATED PURSUANT TO THE UNWIND
TRANSACTIONS**

RETAIL OBLIGATIONS AND AMENDMENTS

1. Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
2. Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation and Southwire Company
3. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
4. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
5. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Alcan Aluminum Corporation

6. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Southwire Company

WHOLESALE OBLIGATIONS AND AMENDMENTS

7. Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and LG&E Energy Marketing Inc.
8. Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and LG&E Energy Marketing Inc.
9. Amendment to Wholesale Power Agreements Dated October 12, 1974 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
10. Amendment to Wholesale Power Agreements Dated February 16, 1988 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
11. Agreement of Big Rivers Electric Corporation with Respect to Future Policies and Procedures Regarding Big Rivers' Transmission System (sometimes referred to as the "Wholesale ISO Agreement"), dated as of July 15, 1998, between Big Rivers Electric Corporation, Green River Electric Corporation, Henderson Union Electric Cooperative Corp., Jackson Purchase Electric Cooperative Corporation, and Meade County Rural Electric Cooperative

CERTAIN REORGANIZATION DOCUMENTS

12. Letter Regarding Schedule 5.4(a)(1) Provisions Regarding Restitution Amounts, dated July 2, 1998, from Geo. F. Hobday, Jr. on behalf of Big Rivers, sent to Frank N. King, W. David Denton, David C. Brown, Michael Kurtz, Allison Wade, and Charles Ritz
13. Letter Regarding Restitution Payments, dated July 13, 1998, from Michael Kurtz sent to James M. Miller and Geoff Hobday
14. Letter Regarding Restitution Payments, dated July 14, 1998, from Michael Core, on behalf of Big Rivers, sent to Allan Eyre and John Henderson
15. Letter Regarding Restitution Payments, dated July 15, 1998, from Allan B. Eyre, on behalf of Alcan, and John Henderson, on behalf of NSA and Southwire, sent to Michael Core

SECURITY AND LOCKBOX AGREEMENTS

16. Security and Lockbox Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LG&E Energy Marketing Inc., Kenergy (as successor to Henderson Union),

Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)

17. Security and Lockbox Agreement, dated as of July 15, 1998, by and among LG&E Marketing Inc., Green River Electric Corporation, and Southwire Company

LOAD MANAGEMENT AGREEMENTS

18. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
19. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Southwire Company, Century Aluminum Company (as successor to Southwire Company), Century Aluminum of Kentucky LLC (as successor to Century Aluminum Company), Hancock Aluminum LLC (as successor to Century Aluminum of Kentucky LLC), and Century Aluminum of Kentucky General Partnership (as successor to Hancock Aluminum LLC and NSA, Ltd.)

ASSURANCES AND GUARANTIES

20. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Alcan Aluminum Corporation, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Alcan Aluminum Corporation
21. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Southwire Company, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Southwire Company
22. Assurances Agreement, dated as of November 30, 2006, between Century Aluminum General Partnership and Big Rivers Electric Corporation
23. First Amendment to Assurances Agreement Dated as of November, 30, 2006, dated as of November __, 2007, by and between Century Aluminum of Kentucky General Partnership and Big Rivers Electric Corporation
24. Guaranty, dated August 1, 2003, from Alcan Corporation to and in favor of the E.ON Parties
25. Guaranty, dated July 15, 1998, of E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Henderson Union)
26. Guaranty, dated July 15, 1998, by E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Green River Electric Corporation)

INDEMNIFICATION AGREEMENTS

27. Indemnification and Assignment Agreement, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
28. Indemnification and Assignment Agreement, dated July 15, 1998, between Green River Electric Corporation and Southwire Company

TIER 3 CONTRACTS AND RELATED DOCUMENTS

29. Agreement for Tier 3 Electric Service (2001-2002), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
30. Agreement for Tier 3 Electric Service (2001-2005), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
31. Agreement for Interruptible Tier 3 Energy, dated as of July 25, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
32. Agreement for Interruptible Tier 3 Energy, dated as of November 5, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
33. Agreement for Interruptible Tier 3 Energy, dated as of September 15, 2003, between Kenergy Corp. and Big Rivers Electric Corporation
34. Agreement for Interruptible Tier 3 Energy, dated as of November 30, 2006, between Kenergy Corp. and Big Rivers Electric Corporation
35. Agreement for Tier 3 Energy (Century), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
36. Agreement for Tier 3 Energy (Alcan), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
37. Consent to the Agreement for Tier 3 Energy (Alcan), dated November ~~___~~29, 2007, by Alcan Primary Products Corporation
38. Consent to the Agreement for Tier 3 Energy (Century), dated November ~~___~~29, 2007, by Century Aluminum of Kentucky General Partnership
39. All other agreements related to the provision of Tier 3 service by or among Big Rivers, Kenergy, the Smelters or any LG&E parties

OTHER AGREEMENTS

40. Assumption and Consent Agreement, dated as of August 1, 2003, among Alcan Primary Products Corporation, WKE Station Two Inc., LG&E Energy Marketing Inc., Western Kentucky Energy Corp. and Kenergy
41. Undertaking of Alcan Corporation, dated August 1, 2003, from Alcan to and in favor of LG&E Energy Marketing Inc., and the Undertaking of Alcan Aluminum Corporation, dated July 15, 1998, in favor of Henderson Union Electric Cooperative Corporation and LG&E Energy Marketing Inc.
42. Special Assignment Agreement, dated as of March 26, 2001, among LG&E Marketing Inc., Southwire Company, Century Aluminum of Kentucky LLC and Century Aluminum Company
43. Consent and Agreement, dated December 23, 2005, among Century Aluminum of Kentucky LLC, Century Aluminum Company, Hancock Aluminum LLC, NSA, Ltd., Century Aluminum of Kentucky General Partnership, Metalsco, Ltd., Skyliner, Inc., Century Kentucky, Inc. and LG&E Energy Marketing Inc.
44. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
45. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
46. Joint Use Agreement, dated as of February 8, 2000, between Western Kentucky Energy Corp. and Big Rivers Electric Corporation

SCHEDULE 6.2.3
LISTING OF CERTAIN DULY AUTHORIZED AND EXECUTED AGREEMENTS

RETAIL AGREEMENTS

1. Retail Electric Service Agreement by and between Kenergy Corp. and Alcan Primary Products Corporation
2. Retail Electric Service Agreement by and between Kenergy Corp. and Century Aluminum General Partnership

WHOLESALE AGREEMENTS

3. Wholesale Electric Service Agreement (Alcan) by and between Big Rivers Electric Corporation and Kenergy Corp.
4. Wholesale Electric Service Agreement (Century) by and between Big Rivers Electric Corporation and Kenergy Corp.

COORDINATION AGREEMENTS

5. Coordination Agreement by and between Big Rivers Electric Corporation and Alcan Primary Products Corporation
6. Coordination Agreement by and between Big Rivers Electric Corporation and Century Aluminum of Kentucky General Partnership

LOCKBOX AGREEMENTS

7. Security and Lockbox Agreement (Alcan) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Alcan Primary Products Corporation
8. Security and Lockbox Agreement (Century) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Century Aluminum of Kentucky General Partnership

GUARANTEES

9. Parent Guarantee by Alcan Corporation in favor of Kenergy Corp., and Big Rivers Electric Corporation
10. Parent Guarantee by Century Aluminum Company in favor of Kenergy Corp., and Big Rivers Electric Corporation

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Legend:	
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Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	9
Style change	0
Format changed	0
Total changes	320

**COMPARISON OF CENTURY RETAIL
AGREEMENT**

RETAIL ELECTRIC SERVICE AGREEMENT

Dated as of [_____],

by and between

KENERGY CORP.

and

CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP

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RETAIL ELECTRIC SERVICE AGREEMENT

This RETAIL ELECTRIC SERVICE AGREEMENT (this "Agreement") is dated as of [____], and made by and between KENERGY CORP., a Kentucky rural electric cooperative corporation ("Kenergy"), and CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP, a Kentucky general partnership ("Century").

RECITALS

A. Kenergy currently supplies and delivers to Century, the owner and operator of an aluminum reduction plant in Hawesville, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation, Kenergy's predecessor-in-interest, and Southwire Company, Century's predecessor-in-interest (the "Existing Century Agreement").

B. Kenergy currently purchases electric energy and related services for resale to Century from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with its affiliates and parent, collectively, "LG&E"), under an Agreement for Electric Service, dated as of July 15, 1998, with Kenergy (the "Kenergy/LG&E Contract").

C. Kenergy also currently purchases additional electric energy and related services for resale to Century, to serve the energy requirements of Century not provided by LG&E, from third-party energy suppliers, including Big Rivers Electric Corporation ("Big Rivers"), an electric generation and transmission cooperative of which Kenergy is a Member.

D. The Existing Century Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E, and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

E. Big Rivers, Kenergy, LG&E, Alcan Primary Products Corporation ("Alcan"), and Century have agreed to enter into a series of transactions referred to herein as the New Transaction and the Unwind Transaction, as defined below.

F. In connection with and as a condition to the Unwind Transaction, Kenergy and Big Rivers have agreed to enter into a wholesale electric service agreement, dated as of the date hereof, for the purchase and sale of electric energy and related services for resale by Kenergy to Century ("Century Wholesale Agreement").

G. In connection with and as a condition to the Unwind Transaction and the Century Wholesale Agreement, Kenergy will supply and deliver, and Century will purchase, retail electric service on the terms and conditions set forth herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the Parties, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions. Capitalized terms when used in this Agreement have the meanings specified herein, including the definitions provided in Article 1, unless stated otherwise or the context requires otherwise.

1.1.1 Accounting Principles: Generally accepted accounting principles consistently applied or, if generally accepted accounting principles in accordance with the uniform system of accounts of an applicable Governmental Authority or RUS are required, the generally accepted accounting principles consistently applied in accordance with such uniform system of accounts, each as in effect from time to time.

1.1.2 Affiliate: With respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified Person. For avoidance of doubt, no Member is an Affiliate of Big Rivers.

1.1.3 Agreement: As defined in the Preamble.

1.1.4 Alcan: As defined in the Recitals.

1.1.5 Alcan Retail Agreement: the retail electric service agreement, dated as of the date hereof, by and between Kenergy and Alcan.

1.1.6 Alcan Wholesale Agreement: The wholesale electric service agreement, dated as of the date hereof, between Big Rivers and Kenergy for the benefit of Alcan.

1.1.7 Ancillary Services: Those services that are necessary to support the transmission of Energy from resources to loads while maintaining reliable operations of Big Rivers' transmission system, as set forth and described in the OATT.

1.1.8 Applicable Law: All laws, statutes, codes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations, interpretations, issuances, enactments, decisions, authorizations, permits or directives of any Governmental Authority having jurisdiction over the matter in question.

1.1.9 Applicable Percentage: The percentage determined in each Fiscal Year that is the quotient of the Base Demand divided by the sum of the Base Demand and the "Base Demand" as defined in and as then in effect under the Alcan Retail Agreement. If the Alcan

Retail Agreement is terminated or no longer in effect for any reason, Alcan's "Base Demand" shall be deemed to be 368 MW for purposes of calculating the Applicable Percentage.

1.1.10 Avoidable Base Charge: The amount in any Billing Month equal to the sum of:

(a) the product of (i) the sum of the Base Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Fixed Energy that was made available by Century to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales;

(b) *plus* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Variable Energy that was made available by Century to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales; and

(c) *less* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) any Base Fixed Energy or Base Variable Energy made available by Century to Big Rivers for Surplus Sales that was neither metered at the Point of Delivery nor sold by Big Rivers as Surplus Sales.

Sample calculations of the Avoidable Base Charge are set forth in Exhibit A.

1.1.11 Back-Up Energy: For any Hour in a Billing Month, the amount of Energy metered at the Point of Delivery during such Hour, less the sum of (i) the Base Demand per Hour less Base Curtailed Energy in such Hour, and (ii) any Supplemental Energy metered at the Point of Delivery during such Hour; *provided*, that the amount of Back-Up Energy may not be less than zero.

1.1.12 Back-Up Energy Charge: As defined in Section 4.4.

1.1.13 Base Curtailed Energy: For any Hour in a Billing Month, the amount of Energy that is either (a) curtailed by Century pursuant to Section 4.13.2, or (b) sold by Big Rivers to one or more Third Parties pursuant to (i) Section 4.13.3 as Economic Sales, (ii) Section 10.1 as Surplus Sales, (iii) Section 10.2 as Undeliverable Energy Sales, or (iv) Section 10.3 as Potline Reduction Sales.

1.1.14 Base Demand: 482 MW, or such other amount of electric demand agreed in accordance with Section 3.1, integrated over an ~~hour~~Hour.

1.1.15 Base Energy Charge: As defined in Section 4.2.

1.1.16 Base Fixed Energy: For any Billing Month, the product of (a) the Base Demand, (b) the number of Hours in the Billing Month, and (c) 0.98.

1.1.17 Base Hourly Energy: For any Hour in a Billing Month, the amount of Energy equal to the sum of (a) the Energy metered at the Point of Delivery during such Hour *less* Supplemental Energy metered at the Point of Delivery, if any, and (b) Base Curtailed Energy; *provided*, that for purposes of calculating Base Hourly Energy, the sum of clauses (a) and (b) above during any Hour shall not exceed the Base Demand per Hour.

1.1.18 Base Monthly Energy: The sum of the Base Hourly Energy for all Hours of a Billing Month.

1.1.19 Base Rate: The rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with a 98% load factor, plus \$0.25 per MWh.

1.1.20 Base Variable Energy: For any Billing Month, Base Monthly Energy less Base Fixed Energy, whether positive or negative.

1.1.21 Base Variable Rate: ~~The Base Variable Rate shall be~~rate, expressed ~~on~~ an dollars per MWh ~~basis and,~~ equal to the sum of (i) the "FAC Base" with respect to Big Rivers' Tariff, (ii) the "Environmental Surcharge Base" with respect to Big Rivers' Tariff, and (iii) the "Purchased Power Base" as defined in Appendix A.

1.1.22 Big Rivers: As defined in the Recitals.

1.1.23 Big Rivers' Tariff: Big Rivers' Rates, Rules and Administrative Regulations For Furnishing Electric Service, as filed with and approved by the KPSC.

1.1.24 Billing Month: Each calendar month during the Service Period.

1.1.25 Budget: The annual operating and capital budget approved by Big Rivers' Board of Directors that estimates all revenues and expenditures of Big Rivers for a specified Fiscal Year, as amended and in effect from time to time.

1.1.26 Business Day: Mondays through Fridays of each week except legal holidays established by federal law in the United States of America or state law in the Commonwealth of Kentucky.

1.1.27 Buy-Through Energy: As defined in Section 2.3.2(b).

1.1.28 Buy-Through Energy Charge: As defined in Section 4.3.2.

1.1.29 Century: As defined in the Preamble.

~~1.1.30 Century FAC Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$3,969,411.76, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom and subject to decreases for any tax liability to Big Rivers relating thereto. No additional principal amounts may be contributed to the Century FAC Reserve after the Effective Date.~~

~~1.1.30~~ ~~1.1.31~~ Century Guarantee: As defined in Section 13.3.

~~1.1.31~~ ~~1.1.32~~ Century Parent: Century Aluminum Company, a Delaware corporation, and a parent corporation of Century.

~~1.1.32~~ ~~1.1.33~~ Century Wholesale Agreement: As defined in the Recitals.

~~1.1.33~~ ~~1.1.34~~ Cut-Off Date: As defined in Section 10.3.6.

~~1.1.34~~ ~~1.1.35~~ Economic Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to the sum of (a) \$157 million, and (b) such additional amount as Big Rivers may designate on or prior to the consummation of the Unwind Transaction, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. The amount designated by Big Rivers pursuant to clause (b) above may not exceed (i) an amount equal to Big Rivers' unrestricted cash on hand following the consummation of the Unwind Transaction less \$125 million, and (ii) zero if Big Rivers shall not have prepaid at least \$200 million of obligations owed to RUS debt as part of the Unwind Transaction. No additional principal amounts will be contributed by Big Rivers to the Economic Reserve after the Effective Date, ~~except as provided under Section 4.13.5(b) of the Alean Wholesale Agreement and the Century Wholesale Agreement, respectively.~~

~~1.1.35~~ ~~1.1.36~~ Economic Sales: As defined in Section 4.13.3.

~~1.1.36~~ ~~1.1.37~~ Effective Date: As defined in Section 6.1.

~~1.1.37~~ ~~1.1.38~~ Electric Services: Electric services, including capacity and associated Energy and Transmission Services, provided by Kenergy pursuant to this Agreement.

~~1.1.38~~ ~~1.1.39~~ Energy: The flow of electricity denominated in kWh or MWh.

~~1.1.39~~ ~~1.1.40~~ Environmental Surcharge: As defined in Section 4.8.3.

~~1.1.40~~ ~~1.1.41~~ Environmental Surcharge Factor: With respect to any Billing Month, a monthly environmental surcharge factor, **expressed in dollars per MWh**, that is calculated in accordance with the "Monthly Environmental Surcharge Factor" as defined in Big Rivers' ~~Tariff~~ Environmental Surcharge Rider.

~~1.1.41~~ ~~1.1.42~~ Environmental Surcharge Rider: The Environmental Surcharge Rider to Big Rivers' Tariff.

~~1.1.42~~ ~~1.1.43~~ Equity Development Credit: As defined in Section 4.10.

~~1.1.43~~ ~~1.1.44~~ Event of Default: As defined in Section 14.1.

~~1.1.44~~ ~~1.1.45~~ Excess TIER Amount: The amount of the TIER Adjustment, if negative, with respect to any Fiscal Year.

~~1.1.45~~ ~~1.1.46~~ Excess Reactive Demand Charge: As defined in Section 4.6.

~~1.1.46~~ ~~1.1.47~~ Existing Century Agreement: As defined in the Recitals.

~~1.1.47~~ ~~1.1.48~~ FAC: The Fuel Adjustment Clause Rider to Big Rivers' Tariff.

~~1.1.48~~ ~~1.1.49~~ FAC Charge: As defined in Section 4.8.1.

~~1.1.49~~ ~~1.1.50~~ FAC Factor: With respect to any Billing Month, the "FAC Factor" (~~fuel adjustment factor~~, expressed on a kWh basis) in dollars per MWh, that is calculated in accordance with the FAC in dollars per kWh.

~~1.1.50~~ ~~1.1.51~~ FERC: Federal Energy Regulatory Commission.

~~1.1.51~~ ~~1.1.52~~ Firm: An obligation to supply Energy subject only to the occurrence of an Uncontrollable Force.

~~1.1.52~~ ~~1.1.53~~ Fiscal Year: The fiscal year of Big Rivers.

~~1.1.53~~ ~~1.1.54~~ Governmental Authority: Any international, national, federal, state, territorial, local or other government, or any political subdivision thereof, and any governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity having legal jurisdiction over the matter or Person in question, including the KPSC; *provided, however* that the RUS is not a Governmental Authority for purposes of this Agreement.

~~1.1.54~~ ~~1.1.55~~ Hawesville Smelter: The aluminum reduction plant owned and operated by Century and located in Hawesville, Kentucky, including any expansions, additions, improvements and replacements thereof or thereto at the existing site.

~~1.1.55~~ ~~1.1.56~~ Hour or Hourly: A clock hour or per clock hour, respectively.

~~1.1.56~~ ~~1.1.57~~ Imputed Interest: As defined in Section 4.7.5(e).

~~1.1.57~~ ~~1.1.58~~ Interruptible Energy: As defined in Section 2.3.2(a).

~~1.1.58~~ ~~1.1.59~~ Interruptible Energy Charge: As defined in Section 4.3.1.

~~1.1.59~~ ~~1.1.60~~ Interruptible Energy Terms: As defined in Schedule 2.3.2(a).

~~1.1.60~~ ~~1.1.61~~ Kenergy/LG&E Contract: As defined in the Recitals.

~~1.1.61~~ ~~1.1.62~~ KPSC: Kentucky Public Service Commission.

~~1.1.62~~ ~~1.1.63~~ kW: Kilowatt.

~~1.1.63~~ ~~1.1.64~~ kWh: Kilowatt-hour.

~~1.1.64~~ ~~1.1.65~~ Large Industrial Rate: Big Rivers' Tariff Rate Schedule No. 7 and all applicable rate adjustments thereto but exclusive of (a) the Rebate, (b) the FAC Factor and the Environmental Surcharge Rider, and (c) any roll-in of costs from the *regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect*

~~to sales to their Non-Smelter Ratepayers~~ **Regulatory Account**. As of the Effective Date, the Large Industrial Rate will consist of separate rate components for demand and Energy consumption. The Large Industrial Rate subsequently may be defined in terms of more than two separate rate components, including, potentially, separate rate components for transmission services. In such event, for purposes of this Agreement the "Large Industrial Rate" shall include all such rate components but excluding in all cases (a) the Rebate and (b) the FAC Factor and the ~~Environmental Surcharge Rider~~. For the avoidance of doubt, the Large Industrial Rate shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.65 ~~1.1.66~~ **LG&E**: As defined in the Recitals.

1.1.66 ~~1.1.67~~ **Lockbox Agreement**: The Security and Lockbox Agreement to be entered into among Century, Kenergy, Big Rivers and a depository bank prior to the Effective Date with respect to the payment of certain amounts due by Century to Kenergy under this Agreement.

1.1.67 ~~1.1.68~~ **Market Energy**: As defined in Section 2.3.2(c).

1.1.68 ~~1.1.69~~ **Market Energy Charge**: As defined in Section 4.3.3.

1.1.69 ~~1.1.70~~ **Market Reference Rate**: For any Hour, a rate equal to the all-inclusive cost, including transmission and related charges on the transmission system of any Third Party (expressed in dollars per MWh), that Big Rivers estimates, in its sole discretion exercised in good faith, that it would have paid to purchase Energy from a Third Party if there had been no curtailment pursuant Section 4.13.2 during such Hour.

1.1.70 ~~1.1.71~~ **Members**: The members of Big Rivers. As of the date hereof, the Members of Big Rivers are Jackson Purchase Energy Corporation, Kenergy, and Meade County Rural Electric Cooperative Corporation.

1.1.71 ~~1.1.72~~ **Model**: As defined in Section 1.2(o).

1.1.72 ~~1.1.73~~ **Monthly Charge**: As defined in Section 4.1.

1.1.73 ~~1.1.74~~ **MW**: Megawatt.

1.1.74 ~~1.1.75~~ **MWh**: Megawatt-hour.

1.1.75 ~~1.1.76~~ **Net Margins**: Net margins as determined by Accounting Principles. For the avoidance of doubt, Net Margins will include all operating and non-operating margins.

1.1.76 ~~1.1.77~~ **Net Proceeds**: The proceeds from the sale of Energy by Big Rivers to Third Parties, net of transaction costs, whenever incurred, and taxes, including Big Rivers' estimated income tax liability on such proceeds without regard to any net operating loss carry-forward of Big Rivers existing on the date of the consummation of the Unwind Transaction, unless and to the extent Big Rivers reasonably determines that such net operating loss carry-forward otherwise would have expired unused.

1.1.77 ~~1.1.78~~ New Facilities: As defined in Section 4.7.5(e).

1.1.78 ~~1.1.79~~ New Ratepayer: A Non-Smelter Ratepayer which is (i) interconnected directly with Big Rivers' transmission system, and (ii) first receives electric service at a location served by a meter required for service at such location which meter was installed specifically for new service at such location after the Effective Date. For the avoidance of doubt, Southwire Company is not a New Ratepayer.

1.1.79 ~~1.1.80~~ New Transaction: The transactions by and between or among one or more of Kenergy, Century, Alcan and Big Rivers related to the supply of Electric Services to Century under this Agreement and "Electric Services" as defined in the Alcan Retail Agreement to Alcan including the Century Wholesale Agreement, the Alcan Wholesale Agreement, coordination agreements, lockbox agreements, and all other related agreements.

1.1.80 ~~1.1.81~~ Non-FAC Purchased Power Adjustment Charge: As defined in Section 4.8.2.

1.1.81 ~~1.1.82~~ Non-FAC Purchased Power Adjustment Factor: A rate *(expressed in dollars per MWh and calculated in accordance with Appendix A in dollars per kWh)* for the recovery of purchased power costs that are not otherwise included in the FAC *(expressed in dollars per kWh) that is calculated in accordance with Appendix A.*

1.1.82 ~~1.1.83~~ Non-Smelter Member Rates: Big Rivers' tariff rates applicable to sales of electric services to Members for resale to Non-Smelter Ratepayers and all applicable rate adjustments thereto but exclusive of (i) ~~a~~ the Rebate and (ii) ~~b~~ the FAC Factor and the Environmental Surcharge Rider. For the avoidance of doubt, the Non-Smelter Member Rates shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.83 ~~1.1.84~~ Non-Smelter Ratepayers: Retail ratepayers of the Members other than Century and Alcan.

1.1.84 ~~1.1.85~~ Notice of Interruption: As defined in Schedule 2.3.2(a).

1.1.85 ~~1.1.86~~ Notice of Termination for Closure: As defined in Section 7.3.1(b).

1.1.86 ~~1.1.87~~ OATT: Big Rivers' Open Access Transmission Tariff as filed with FERC and found by FERC to constitute a reciprocal open access transmission tariff.

1.1.87 ~~1.1.88~~ Parties: Kenergy and Century.

1.1.88 ~~1.1.89~~ Permitted Interruption: As defined in Schedule 2.3.2(a).

1.1.89 ~~1.1.90~~ Person: Any individual, corporation, cooperative, partnership, joint venture, association, joint-stock company, limited partnership, limited liability company, limited liability partnership, trust, unincorporated organization, RUS or Governmental Authority.

1.1.90 ~~1.1.91~~ Point of Delivery: The existing set of meters at Big Rivers' Coleman substation or such other point of delivery mutually agreed by the Parties and Big Rivers.

1.1.91 ~~1.1.92~~ Potential Tax Liability: As defined in Section 13.3.

1.1.92 ~~1.1.93~~ Potline Reduction: As defined in Section 10.3.1.

1.1.93 ~~1.1.94~~ Potline Reduction Sales: As defined in Section 10.3.1.

1.1.94 ~~1.1.95~~ Potline Reduction Sales Agreement: As defined in Section 10.3.3.

1.1.95 ~~1.1.96~~ Prime Rate: The then-effective prime commercial lending rate per annum published in the "Money Rates" section of *The Wall Street Journal*. If *The Wall Street Journal* discontinues publication of the prime commercial lending rate, the Parties and Big Rivers shall agree on a mutually acceptable alternative source for that rate.

1.1.96 ~~1.1.97~~ Prudent Utility Practice: 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 which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could have been expected to accomplish the desired result at a 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 be any and all acceptable practices, methods, or acts generally accepted.

1.1.97 ~~1.1.98~~ Rebate: As defined in Section 4.9.

1.1.98 Regulatory Account: The regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers.

1.1.99 Response: As defined in Schedule 2.3.2(a).

1.1.100 Restructuring: The occurrence of any of the following:

(a) the merger, consolidation or other combination of Big Rivers or an Affiliate or a Member with any Person (including acquisition of another utility system) if following such transaction Big Rivers or its successor would have had sales of Energy to all Members or regulated customers on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers' actual sales of Energy to the Members for such Fiscal Year;

(b) the acquisition of Big Rivers; or

(c) the admission of a new Member if following such admission Big Rivers would have had sales of Energy to all Members on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers' actual sales of Energy to the Members for such Fiscal Year.

- 1.1.101 Restructuring Amount: As defined in Section 16.5.1.
- 1.1.102 Retail Fee: As defined in Section 4.12.
- 1.1.103 RUS: United States Department of Agriculture Rural Utilities Service.
- 1.1.104 Scheduled Interruptible Energy: As defined in Schedule 2.3.2(a).
- 1.1.105 SERC: SERC Reliability Corporation, a regional reliability organization.
- 1.1.106 Service Period: As defined in Section 2.1.
- 1.1.107 Smelters: Century and Alcan.
- 1.1.108 Supplemental Energy: As defined in Section 2.3.2.
- 1.1.109 Supplemental Energy Charge: As defined in Section 4.3.
- 1.1.110 Surcharge: As defined in Section 4.11.
- 1.1.111 Surplus Sales: As defined in Section 10.1.1.

1.1.112 System Emergency: Any cessation of operation or reduction in the provision or delivery of Electric Services by Kenergy due in whole or in part to: (a) a disconnection of all or a portion of Big Rivers' or Kenergy's system from the transmission grid (other than as a direct result of Big Rivers' or Kenergy's gross negligence or willful misconduct), (b) a system emergency on the transmission grid of a Third Party, or (c) the occurrence of a condition or situation where the delivery of Energy to a transmission grid with which Big Rivers is directly interconnected or the making available of generation services or Transmission Services which could cause (i) harm to life or limb or imminent serious threat of harm to life or limb, (ii) material damage to Big Rivers' or Kenergy's system or any material component thereof or imminent danger of material damage to property, or (iii) other dangerous occurrences that Big Rivers or Kenergy believes, in the exercise of Prudent Utility Practice, should be prevented or curtailed.

1.1.113 System Firm: An obligation to supply Energy from ~~(i)~~;

(a) Big Rivers' owned or leased generation facilities, ~~(ii)~~

(b) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), ~~and (iii) or~~

(c) Big Rivers' Firm power purchase agreements with a term of two years or more which were not entered into for purpose of serving a specific non-Smelter load,

in each case subject to the occurrence of an Uncontrollable Force or similar event of force majeure, a System Emergency or Big Rivers' prior satisfaction of the Energy requirements of the Non-Smelter Members, the Smelters and Third Parties under power sales agreements entered into prior to such power sales agreement the making of such obligation to supply Energy.

1.1.114 Term: As defined in Section 7.1.

1.1.115 Third Party: A Person other than Kenergy, Century, Big Rivers or Alcan.

1.1.116 Third Party Supplier(s): As defined in Section 2.3.2(c).

1.1.117 TIER: The quotient for a Fiscal Year of (i) Big Rivers' interest expenses plus Net Margins, divided by (ii) Big Rivers' interest expenses; in each case, calculated in accordance with Accounting Principles.

1.1.118 TIER Adjustment: As defined in Section 4.7.5.

1.1.119 TIER Adjustment Charge: As defined in Section 4.7.1.

1.1.120 Transition Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$35 million, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. No additional principal amounts will be contributed by Big Rivers to the Transition Reserve after the Effective Date.

1.1.121 Transmission Charge: As defined in Section 4.5.

1.1.122 Transmission Services: Network transmission services as described in the OATT and Ancillary Services. Transmission Services are currently included in the Large Industrial Rate but may be unbundled in accordance with the terms and conditions of the Century Wholesale Agreement.

1.1.123 Uncontrollable Force: Any cause beyond the control of the Party unable, in whole or in part, to perform its obligations under this Agreement which, despite exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid and which, despite the exercise of due diligence, it has been unable to overcome. Examples of events that may constitute the basis of an event which constitutes an "Uncontrollable Force" include: acts of God; strikes, slowdowns or labor disputes; acts of the public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; arrests and restraints of any Governmental Authority; civil or military disturbances; explosions, breakage of or accident to machinery, equipment or transmission lines; inability of a Party to obtain necessary materials, supplies or permits due to existing or future rules, regulations, orders, laws or proclamations of Governmental Authorities, civil or military; transmission constraints or System Emergencies; a forced outage of a generating unit or units preventing the physical delivery of Energy to Kenergy for resale to Century; and any other forces which are not reasonably within the control of the Party claiming suspension. "Uncontrollable Forces" do not include an insufficiency of funds or decline in credit ratings or customary, expected or routine maintenance or repair of plant or equipment. Nothing contained herein shall be construed to obligate a Party to prevent or to settle a labor dispute against its will.

1.1.124 Undeliverable Energy Sales: As defined in Section 10.2.1.

1.1.125 Unwind Transaction: The consummation of the transactions contemplated on the date of the “Closing” as defined in and pursuant to the Transaction Termination Agreement among Big Rivers, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.

1.2 Rules of Interpretation. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement will have the meanings specified in this Article 1 unless the context requires otherwise; (b) the singular will include the plural and vice versa; (c) references to “Recitals,” “Articles,” “Sections,” “Exhibits” or “Schedules” are to the recitals, articles, sections, exhibits or schedules of this Agreement, unless otherwise specified; (d) all references to a particular Person in any capacity will be deemed to refer also to such Person’s authorized agents, permitted successors and assigns in such capacity; (e) the words “herein,” “hereof” and “hereunder” will refer to this Agreement as a whole and not to any particular section or subsection hereof; (f) the words “include,” “includes” and “including” will be deemed to be followed by the phrase “without limitation” and will not be construed to mean that the examples given are an exclusive list of the topics covered; (g) references to this Agreement will include a reference to all exhibits and schedules hereto; (h) references to any agreement, document or instrument will be construed at a particular time to refer to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced as of such time; (i) the masculine will include the feminine and neuter and vice versa; (j) references to any tariff, rate, or order of any Governmental Authority will mean such tariff, rate or order, as the same may be amended, modified, supplemented or restated and be in effect from time to time; (k) if any action or obligation is required to be taken or performed on any day which is not a Business Day, such action or obligation must be performed on the next succeeding Business Day; (l) references to an Applicable Law will mean a reference to such Applicable Law as the same may be amended, modified, supplemented or restated and be in effect from time to time; (m) all accounting terms not defined in this Agreement will be construed in accordance with Accounting Principles; (n) all references to a time of day shall be a reference to the prevailing time in Henderson, Kentucky; and (o) the financial and production cost models prepared by Big Rivers, including models filed with the KPSC, in connection with the application for approval of the Unwind Transaction and the New Transaction (the “Model”) have been prepared solely by Big Rivers and shall not be used by the Parties or any Governmental Authority to construe or interpret any provision of this Agreement. The Parties collectively have prepared this Agreement, and none of the provisions hereof will be construed against one Party on the ground that it is the author of this Agreement or any part hereof.

1.3 Calculations and Rounding. In making any mathematical calculation provided for or contemplated by this Agreement, the calculation will be made to six decimal places (rounded up if the numeral in the seventh decimal place is five or higher, and rounded down if the numeral in the seventh decimal place is lower than five).

ARTICLE 2

ELECTRIC SERVICES AND RATES

2.1 Service Period Obligations. In accordance with the terms and conditions of this Agreement, Kenergy will supply, and Century will purchase, Electric Services for a period

beginning at 12:00:01 A.M. on the day next succeeding the Effective Date and continuing until 12:00:00 midnight on December 31, 2023, unless the Parties' respective obligations to supply and purchase Electric Services are earlier terminated pursuant to the terms of this Agreement (the "Service Period").

2.2 Characteristics of Service. Electric service to be supplied by Kenergy to Century under this Agreement shall be nominally three-phase, sixty cycle at 161,000 volts or as otherwise agreed to by the Parties and Big Rivers. The Parties and Big Rivers will mutually agree on limits of the regulation of voltage but at no time may such regulation of such limits be inconsistent with standards required by applicable Governmental Authorities or any other organizations that establish reliability and electric operation standards for the region.

2.3 Delivery Obligation. In accordance with this Agreement, during the Service Period, Kenergy will deliver, or cause to be delivered, at the Point of Delivery to Century Base Monthly Energy, Supplemental Energy and Back-Up Energy.

2.3.1 Base Monthly Energy. Century may purchase in each Hour of the Service Period an amount of Energy up to the Base Demand per Hour. For billing purposes, Base Monthly Energy consists of two components: Base Fixed Energy charged at the Base Rate and Base Variable Energy (which may be either a positive or negative amount) charged or credited at the Base Variable Rate.

2.3.2 Supplemental Energy. "Supplemental Energy" shall consist of (i) Interruptible Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(a) and Schedule 2.3.2(a), (ii) Buy-Through Energy purchased by Kenergy from Big Rivers and, in turn, by Big Rivers from Third Party Suppliers upon the interruption of Interruptible Energy, pursuant to Section 2.3.2(b), and (iii) Market Energy purchased by Kenergy from Big Rivers or Third Party Suppliers pursuant to Section 2.3.2(c).

(a) Interruptible Energy. As of the Effective Date, Kenergy shall make available to Century up to 10 MW per Hour of Energy subject to Kenergy's right to interrupt the delivery of such Energy ("Interruptible Energy") in accordance with the terms and conditions set forth in Schedule 2.3.2(a). Century hereby agrees to the terms and conditions of Schedule 2.3.2(a) and agrees to purchase the Scheduled Interruptible Energy made available thereunder and through its consent to quarterly confirmations from Big Rivers to Kenergy as described in Schedule 2.3.2(a).

(b) Buy-Through Energy. Upon each Notice of Interruption, Kenergy will offer to sell to Century any Firm Energy which Big Rivers in its sole discretion offers to Kenergy for resale to Century in lieu of the interrupted Scheduled Interruptible Energy ("Buy-Through Energy") and the estimated price or prices during the specified Hour or Hours of Interruption upon which Big Rivers would supply such Energy. Century shall have ten minutes from the time it receives verbal Notice of Interruption to notify Big Rivers and Kenergy whether Century agrees to purchase Buy-Through Energy offered to be supplied by Big Rivers to Kenergy for resale to Century. Century promptly shall confirm verbal acceptance of the Buy-Through Energy with a facsimile confirmation or pursuant to other electronic communications acceptable to Kenergy and Big Rivers. Upon Kenergy's acceptance of the Buy-Through Energy,

the obligation of Big Rivers to provide the Buy-Through Energy shall become a Firm service commitment. The failure of Century to notify Kenergy and Big Rivers of acceptance of the Buy-Through Energy during the period provided shall constitute a rejection of the Buy-Through Energy, and the Interruption shall thereafter be implemented in accordance with the applicable Notice of Interruption and neither Kenergy nor Big Rivers shall have any obligation to supply Century Buy-Through Energy during such Interruption.

(c) Market Energy. Kenergy shall use reasonable commercial efforts to acquire Supplemental Energy (other than Interruptible Energy or Buy-Through Energy) from either Big Rivers or one or more suppliers other than Big Rivers ("Third Party Suppliers") for resale to Century, upon the request of Century ("Market Energy") specifying (i) the requested amount and duration of such Energy, and (ii) all requested prices and material terms and conditions. Century shall pay to Kenergy all amounts that Kenergy is obligated to pay to either Big Rivers or any Third Party Supplier, including the purchase price paid by Kenergy for such Market Energy and the costs, if any, of transmission services or related services incurred on Third Party transmission systems to transmit such Market Energy to a point of interconnection with Big Rivers' transmission system. Nothing in this Agreement may be construed to limit the ability of Kenergy to purchase Energy or other electric services from Third Party Suppliers to serve Century.

(i) Kenergy's obligation to enter into any contractual arrangements with Big Rivers or a Third Party Supplier for the purchase of Market Energy shall be conditioned upon Kenergy's prior receipt of a written notification from Century setting forth Century's consent to the execution, delivery and performance of such contractual arrangements and upon Century's providing such financial assurances as may be reasonably required to hold Kenergy harmless for its obligations in connection therewith.

(ii) As a condition to the effectiveness of any contractual arrangements for the purchase of Market Energy for resale to Century, Kenergy shall make application to, and use reasonable commercial efforts to obtain approval of, the KPSC to sell such Market Energy to Century each Billing Month in an amount that is equal to the amount that Kenergy is required to pay each Billing Month to Big Rivers or a Third Party Supplier, as applicable, for such Market Energy.

(iii) Promptly following request by Century for Market Energy, Kenergy shall request that Big Rivers provide all Transmission Services necessary to transmit Market Energy requested by Century from a point of interconnection on Big Rivers' transmission system to the Point of Delivery ~~promptly following such request~~. The amount of Market Energy transmitted from a point of interconnection on Big Rivers' system to the Point of Delivery shall be reduced by the applicable system loss factor as provided in the OATT. Century acknowledges and agrees that Kenergy shall have no liability to Century for Big Rivers' denial of Kenergy's duly submitted request for reservation of Transmission Services.

(iv) With respect to a purchase of Market Energy from a Third Party Supplier, Kenergy shall be obligated to deliver to Century only those amounts of Market Energy received from such Third Party Supplier, net of applicable losses of Energy on Big Rivers' transmission system. Kenergy will not be in default under any provision of this

Agreement nor will it have any liability to Century if the non-delivery of Market Energy is due to a failure by a Third Party Supplier to deliver the full amount of Market Energy under the terms and conditions of the agreement between Kenergy and such Third Party Supplier provided that Kenergy has assigned to Century Kenergy's rights and remedies against the Third Party Supplier under such agreement.

(v) If Century is unable to receive and consume Market Energy purchased by Kenergy from a Third Party Supplier because of an Uncontrollable Force, then upon the request of Century, Kenergy shall use reasonable commercial efforts to sell or cause to be sold such Market Energy to other Third Parties for the duration specified by Century's request. Kenergy shall apply all revenues derived from such resale as a credit to Century, net of any transmission services charges or related charges or other expenses incurred to make such resale.

2.3.3 Back-Up Energy. Kenergy shall provide Back-Up Energy to Century at the Point of Delivery through purchases of Energy from Big Rivers at the prices and on the terms and conditions set forth in Section 4.4.

2.4 Power Factor. Century shall use commercially reasonable efforts to maintain (a) a power factor at the Point of Delivery as nearly as practicable to unity, and (b) a power factor that is not below 0.90 leading or lagging with respect to maximum electric demand incurred by Century during any Billing Month. Century shall, without regard to the obligations of Big Rivers pursuant to the Century Wholesale Agreement, cause to be maintained a power factor at the Point of Delivery at unity with respect to Energy purchased by Kenergy or Big Rivers from Third Parties for resale to Century.

2.5 Title and Risk of Loss. Title to and risk of loss with respect to Energy provided by Kenergy to Century pursuant to this Agreement will pass from Kenergy to and rest in Century when the same is made available by Kenergy (or Big Rivers on behalf of Kenergy) at the Point of Delivery. After title passes to Century, Century will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby.

2.6 Performance by Kenergy. Century acknowledges and agrees that, to the extent Big Rivers has a corresponding or related obligation to Kenergy under the Century Wholesale Agreement, Kenergy's performance of an obligation under this Agreement is subject to and conditioned upon Big Rivers' performance of such corresponding or related obligation to Kenergy. Century acknowledges and agrees that Big Rivers may enforce an obligation of Century under this Agreement which corresponds or relates to an obligation of Kenergy to Big Rivers under the Century Wholesale Agreement.

ARTICLE 3

CHANGES IN DEMAND AND SCHEDULING

3.1 Change In Base Demand. Century may change the Base Demand for any Fiscal Year only with the written consent of Kenergy and Big Rivers.

3.2 Scheduling.

3.2.1 Century shall not be required to schedule Base Monthly Energy, Buy-Through Energy or Back-Up Energy but shall use reasonable commercial efforts to inform Kenergy and Big Rivers promptly of any material change in its intended usage.

3.2.2 In accordance with the OATT, Century must schedule and arrange with Kenergy and Big Rivers no later than 9:00 A.M. on the Business Day immediately preceding the day or days of delivery, or as otherwise mutually agreed by the Parties and, if applicable, Big Rivers, the delivery of Interruptible Energy and Market Energy.

ARTICLE 4

CHARGES AND CREDITS

4.1 Monthly Charge. Century shall pay Kenergy the following (the “Monthly Charge”) for the Electric Services provided or made available under this Agreement:

- 4.1.1 the Base Energy Charge calculated pursuant to Section 4.2,
- 4.1.2 plus the Supplemental Energy Charge calculated pursuant to Section 4.3,
- 4.1.3 plus the Back-Up Energy Charge calculated pursuant to Section 4.4,
- 4.1.4 plus the Transmission Charge pursuant to Section 4.5,
- 4.1.5 plus the Excess Reactive Demand Charge calculated pursuant to Section 4.6,
- 4.1.6 plus the TIER Adjustment Charge calculated pursuant to Section 4.7.1,
- 4.1.7 plus the FAC Charge calculated pursuant to Section 4.8.1,
- 4.1.8 plus the Non-FAC Purchased Power Adjustment Charge calculated pursuant to Section 4.8.2,
- 4.1.9 plus the Environmental Surcharge calculated pursuant to Section 4.8.3,
- 4.1.10 plus or minus the monthly amortization of the Restructuring Amount calculated pursuant to Section 16.5.1,
- 4.1.11 less the Rebate calculated pursuant to Section 4.9,
- 4.1.12 less the Equity Development Credit calculated pursuant to Section 4.10,
- 4.1.13 plus the Surcharge calculated pursuant to Section 4.11,
- 4.1.14 plus the Retail Fee calculated pursuant to Section 4.12,

- 4.1.15 less the credits calculated pursuant to Section 4.13,
- 4.1.16 plus or minus other amounts calculated pursuant to Section 4.14, and
- 4.1.17 plus taxes calculated pursuant to Section 4.15.

4.2 Base Energy Charge. For any Billing Month, the “Base Energy Charge” shall be the sum of:

- (a) the product of Base Fixed Energy and the Base Rate; and
- (b) the product, whether positive or negative, of the Base Variable Energy and the Base Variable Rate.

Sample calculations of the Base Energy Charge at different load factors are set forth in Exhibit A.

4.3 Supplemental Energy Charge. For any Billing Month, the “Supplemental Energy Charge” shall be the sum of the charges, whenever determined, Kenergy is obligated to pay for the Interruptible Energy Charge, the Buy-Through Energy Charge, and the Market Energy Charge, as calculated below.

4.3.1 The “Interruptible Energy Charge” shall be the product of (i) the quantity of Interruptible Energy metered at the Point of Delivery during the Billing Month and (ii) the rate or rates for Interruptible Energy with respect to such Billing Month.

4.3.2 The “Buy-Through Energy Charge” shall be the sum of:

(a) any and all of the charges for Buy-Through Energy purchased by Kenergy for delivery to Century pursuant to Section 2.3.2(b) during such Billing Month including any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Buy-Through Energy purchased from a Third Party to a point at which Big Rivers’ transmission system is interconnected with such system; and

(b) all other charges that Kenergy may be required to pay to Big Rivers in connection with Buy-Through Energy, including any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Buy-Through Energy to Kenergy for resale to Century.

4.3.3 The “Market Energy Charge” shall be the sum of:

(a) any and all of the charges for Market Energy purchased by Kenergy for delivery to Century pursuant to Section 2.3.2(c) during such Billing Month including any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar

costs or expenses), provided by a Third Party whose transmission system is used to transmit Market Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system; and

(b) all other charges that Kenergy may be required to pay to Big Rivers or any Third Party Suppliers in connection with Market Energy, including any amount payable upon termination by reason of default of the supply arrangements between Kenergy and Big Rivers or Kenergy and a Third Party Supplier, net of recoveries by Kenergy or Big Rivers from such suppliers with respect to the supply of Market Energy to Kenergy for resale to Century.

4.4 Back-Up Energy Charge. For any Billing Month, the "Back-Up Energy Charge" shall be the sum of the Hourly charges for Back-Up Energy calculated as follows:

4.4.1 The charge for Back-Up Energy supplied in any Hour shall equal the following:

(a) to the extent the Back-Up Energy was supplied by Big Rivers from generating facilities owned or controlled by Big Rivers and located within Big Rivers' transmission control area, the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to the greater of (1) the real time Hourly locational marginal price at Big Rivers' interface with the Midwest Independent System Operator (or such other pricing reference point that shall be mutually agreed upon by the Parties and Big Rivers), and (2) Big Rivers' system lambda; divided by (B) 1.00 minus the loss factor set forth in the OATT;

(b) to the extent the Back-Up Energy was not supplied pursuant to Section 4.4.1(a), the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to 110% of the highest Hourly all-inclusive cost incurred by Big Rivers to acquire any Energy, including such Back-Up Energy, and the separate cost, if any, whenever determined, of transmission services and related services provided by a Third Party whose transmission system is used to transmit Back-Up Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system and including any imbalance charges or other costs arising from the failure of a Third Party Supplier to deliver Energy that it is obligated to deliver; divided by (B) 1.00 minus the loss factor set forth in the OATT; and

(c) to the extent that the amount of Back-Up Energy required by Century during any hour exceeds the sum of (x) ten MW per Hour, (y) the amount of Back-Up Energy resulting from deemed Interruption of Scheduled Interruptible Energy pursuant to Schedule 2.3.2(a), and (z) the amount of Back-Up Energy resulting from the non-delivery of Market Energy purchased by Kenergy from a Third Party Supplier, then the charge for the excess amount of Back-Up Energy shall be the product of (i) the excess amount of Back-Up Energy, and (ii) the greater of (A) \$250 per MWh and (B) the price set forth in Section 4.4.1(b)(ii).

Sample calculations of the Back-Up Energy Charge are set forth in Exhibit A.

4.4.2 If during any Hour Kenergy provides Back-Up Energy to Century and “Back-Up Energy” (as defined in the Alcan Retail Agreement) to Alcan, then the provisions of Section 4.4.1 shall apply to a proportional number of MW of Back-Up Energy for each of Century and Alcan.

4.5 Charge for Transmission Services and Ancillary Services. For any Billing Month, the charge for transmission services and ancillary services (the “Transmission Charge”) shall be the sum of the charges, calculated in accordance with the OATT, for Transmission Services for (a) Base Monthly Energy that are unbundled from the Large Industrial Rate in accordance with the terms of the Century Wholesale Agreement, if any; and (b) Supplemental Energy.

4.6 Excess Reactive Demand Charge. For any Billing Month, the “Excess Reactive Demand Charge”, if any, shall be the product of \$0.1433 and the amount, expressed in kilovars, of the difference, if positive, between:

- (a) the maximum metered reactive demand of Century during the Billing Month, and
- (b) an amount of kilovars equal to the sum of:
 - (i) the product of (A) 0.4843, and (B) the maximum hourly demand during a Billing Month, denominated in kilowatts, associated with Base Monthly Energy, Interruptible Energy, Market Energy, and Back-Up Energy provided by Big Rivers to Kenergy for resale to Century, but less the amount of such Interruptible Energy, Market Energy or Back-Up Energy that was purchased by Big Rivers from Third Parties, and
 - (ii) ~~78,005~~ 74,005.

4.7 TIER Adjustment Charge.

4.7.1 The “TIER Adjustment Charge” shall be, for any Fiscal Year, the amount that is the product of the Applicable Percentage and the TIER Adjustment if, and only if, such TIER Adjustment is a positive amount; *provided, however*, that in no case will the TIER Adjustment Charge for any Fiscal Year exceed the amount that is the product of the Base Fixed Energy and the maximum additional charge per MWh set forth below for the applicable Fiscal Year:

<u>Fiscal Years</u>	<u>Maximum Additional Charge</u>
2008-2011	\$1.95 per MWh
2012-2014	\$2.95 per MWh
2015-2017	\$3.55 per MWh
2018-2020	\$4.15 per MWh
2021-2023	\$4.75 per MWh

If the TIER Adjustment shall be negative, there will be an Excess TIER Amount and no TIER Adjustment Charge.

4.7.2 Prior to each Fiscal Year, Big Rivers shall estimate both the TIER Adjustment and, if the TIER Adjustment is positive, the TIER Adjustment Charge based on the Budget for such Fiscal Year. Kenergy shall collect such estimated amount from Century in equal monthly installments as part of the Monthly Charge for each Billing Month during the applicable Fiscal Year.

4.7.3 Within 45 days following the end of the first, second and third fiscal quarters of each Fiscal Year, Big Rivers shall again estimate the TIER Adjustment and the corresponding amount of the TIER Adjustment Charge based on a comparison of the Budget and year-to-date results of operations, and shall calculate a modified amount to be collected from, or refunded as a credit to, the Monthly Charge to Kenergy with respect to service to Century during the remaining portion of the Fiscal Year, including any amounts necessary to address any estimated under- or over-collection of the TIER Adjustment Charge from Century as compared to the Budget during the remainder of the Fiscal Year. Kenergy shall collect or credit such modified amount from Century in equal monthly installments as part of the Monthly Charge for the remaining Billing Months of the subject Fiscal Year.

4.7.4 As soon as reasonably practicable but no later than 120 days after the end of each Fiscal Year, Big Rivers shall calculate the TIER Adjustment and TIER Adjustment Charge for such Fiscal Year. The TIER Adjustment Charge for such Fiscal Year shall be compared to the aggregate amounts paid by Century in respect of the estimated TIER Adjustment Charge for such Fiscal Year, and the difference between such amounts shall be included as a charge or credit, as applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year.

4.7.5 The "TIER Adjustment" shall be the amount of incremental revenue, whether positive or negative, calculated with respect to each Fiscal Year after determination of Net Margins for such Fiscal Year (excluding amounts payable to Kenergy with respect to or relating to the revenue that results from the TIER Adjustment Charge and the "TIER Adjustment Charge" as defined in the Alcan Retail Agreement), that is necessary for Big Rivers to receive in order to achieve a TIER of 1.24 for such Fiscal Year; *provided, however*, that if the Service Period commences or terminates on a date other than the first or last day of a Fiscal Year and to give effect to this Section 4.7.5, the TIER Adjustment will be calculated on an Hourly basis only with respect to the partial period of the first or final Fiscal Year of the Service Period, as applicable. The determination of the TIER Adjustment shall be subject to the following:

(a) It shall be assumed that: Big Rivers shall have generated additional revenue from service to the Members for resale to the Non-Smelter Ratepayers as if Big Rivers had increased the Non-Smelter Member Rates by a weighted average of 2.00% in 2010, another 2.50% in 2018 and another 4.00% in 2021 if and to the extent Big Rivers had not prior to or during the year of the calculation increased the Non-Smelter Member Rates by at least such amounts. The revenues from any roll-in of the costs associated with costs recovered under the FAC-er, the Environmental Surcharge Rider or the Regulatory Account that ~~is~~are incorporated into base rates comprising a portion of the Non-Smelter Member Rates will not constitute an increase in the Non-Smelter Member Rates for purposes of this clause (a), and the revenues attributable to any such roll-in will be excluded in calculating the percentage of any increases in the Non-Smelter Member Rates. The expiration or termination of Big Rivers'

Member Discount Adjustment Rider shall be deemed to be an increase in the Non-Smelter Member Rates for purposes of this clause (a), without regard to whether such expiration or termination occurs prior to, on or after the Effective Date.

(b) It shall be assumed that: If a Member provides electric service to a New Ratepayer with a Firm demand in excess of 15 MW, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the greater of: (i) the amount paid for such service and (ii) an amount calculated for the same period equal to (A) a rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with the New Ratepayer's load factor, plus \$0.25 per MWh, *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis), *plus* (C) the Surcharge (the Surcharge being calculated on an amount per MWh based on Base Fixed Energy for such Fiscal Year) set forth in Section 4.11; *plus* (D) amounts corresponding to the amount per MWh paid by Kenergy during the same period for the TIER Adjustment Charge. If a Member provides electric service to a New Ratepayer with a Firm demand of 15 MW or less, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the sum of (i) the Large Industrial Rate and (ii) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis). For purpose of this clause (b), the revenues produced by any surcharge with respect to a New Ratepayer similar to the Surcharge or the "Surcharge" under the ~~Century~~Alcan Retail Agreement will be assumed to accrue solely to the benefit of the Non-Smelter Ratepayers except to the extent such surcharge is paid by or imputed to a New Ratepayer pursuant to subclause (A) of this clause (b). The assumptions contained in this clause (b) shall not apply with respect to a New Ratepayer that first interconnects with Big Rivers' transmission system during the last three Fiscal Years of the Service Period or following notice of termination of this Agreement or the ~~Century~~Alcan Retail Agreement.

(c) It shall be assumed that: Big Rivers' interest expense shall have been reduced by the product of (i) Big Rivers' average effective interest rate for borrowed money for the prior Fiscal Year, and (ii) the aggregate amount of any patronage capital retired by Big Rivers to its Members during the Service Period (other than any distribution from the Economic Reserve or the Transition Reserve or relating to the Surcharge or the "Surcharge" under the Alcan Retail Agreement), from and after the date of such retirement.

(d) It shall be assumed that: Interest on construction work-in-progress relating to the construction of new electric generating facilities or transmission facilities shall have been capitalized by Big Rivers if it has the right to elect to do so or it is obligated to capitalize such interest under Accounting Principles unless a Governmental Authority has approved the inclusion of such interest expenses in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such interest expenses.

(e) If Big Rivers acquires or constructs non-peaking electric generating facilities alone or with others ("New Facilities"), Big Rivers' interest expenses shall not include the interest imputed on the debt relating to the New Facilities ("Imputed Interest"); *provided, however, that if a Governmental Authority has approved the inclusion of such generating facilities in Big Rivers' revenue requirements for rate-making purposes or otherwise*

approved a surcharge to provide for the recovery of the costs of such New Facilities, then actual interest expense with respect to such New Facilities shall be included in the TIER calculation to the extent recovery is permitted; *provided, further*, that this clause (e) may not cause the TIER Adjustment to become negative. For purposes of determining Imputed Interest, it shall be assumed that the New Facilities were financed 80% with debt and 20% with equity. Imputed Interest shall equal the product of (i) the weighted average interest rate on Big Rivers' debt for the Fiscal Year, and (ii) the amount of debt equal to 80% of the capital invested in the New Facilities.

(f) It shall be assumed that: ~~The Century FAC Reserve, the Alcan FAC Reserve (as defined in the Alcan Retail Agreement), the Economic Reserve and the Transition Reserve shall not generate any revenue or tax liability and the application of funds from the Century FAC Reserve, the Alcan FAC Reserve (as defined in the Alcan Retail Agreement), the Economic Reserve or the Transition Reserve shall not result in any change in the Net Margins of Big Rivers.~~

(g) It shall be assumed that: Big Rivers shall have made no payment for damages or indemnification to or for the benefit of a Smelter with respect to the provision of Electric Services or "Electric Services" as defined in the Alcan Retail Agreement.

(h) It shall be assumed that: Big Rivers shall have paid no criminal penalties with respect to its acts or omissions other than criminal penalties that a Governmental Authority has approved the inclusion of in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such penalties.

(i) It shall be assumed that: Big Rivers shall have received no proceeds from the sale of Energy to the wholesale market pursuant to Section 4.13.3 or the corresponding section of the Alcan Retail Agreement.

(j) It shall be assumed that: Big Rivers shall have incurred no expenses that are impermissible for inclusion in rates of electric generation and transmission cooperative utilities subject to the jurisdiction of the KPSC for rate-making purposes (currently including advertising expenses, branding expenses, charitable contributions and lobbying expenses) or specifically disallowed for rate making purposes by a Governmental Authority; *provided, however*, that denial by a Governmental Authority of expense recovery through the FAC or the Environmental Surcharge Rider shall not constitute an expense that is impermissible for inclusion in rates if the nature of such expense is recoverable in base rates.

(k) It shall be assumed that: There are no revenues and expenses associated with non-regulated businesses of Big Rivers.

(l) It shall be assumed that: No interest is paid pursuant either to Section 5.3 or Section 5.4 or pursuant to the corresponding sections of the Alcan Retail Agreement.

(m) It shall be assumed that: No amounts have been or are payable with respect to Excess Reactive Demand Charges or with respect to "Excess Reactive Demand Charges" under the Alcan Retail Agreement.

(n) It shall be assumed that: No administrative fee shall have been received by Big Rivers as a result of any Surplus Sales, Undeliverable Energy Sales or Potline Reduction Sales or sales of Energy pursuant to the corresponding sections of the Alcan Retail Agreement.

(o) Additional costs related to a change in Big Rivers' depreciation rates may not be included in the calculation of the TIER Adjustment unless such change has been approved, consented to or accepted by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by the RUS or any other Governmental Authority having jurisdiction over such change, if any.

(p) It shall be assumed that: The amortization of any Restructuring Amount is zero.

4.7.6 Any proceeds received or transaction costs paid by Big Rivers as part of or in connection with the consummation of the Unwind Transaction shall be disregarded for purposes of computing the TIER Adjustment Charge for the Fiscal Year in which the Unwind Transaction occurs.

4.8 Adjustable Charges.

4.8.1 The "FAC Charge" shall be the product of the FAC Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.2 The "Non-FAC Purchased Power Adjustment Charge" shall be the product of the Non-FAC Purchased Power Adjustment Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.3 The "Environmental Surcharge" shall be the product of the Monthly Environmental Surcharge Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.9 Rebate. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers elects to implement a rebate to its Members in respect thereof, then no later than the first day of the fifth month of the following Fiscal Year, Kenergy will credit to Century an amount (the "Rebate") equal to the product of:

(i) the Excess TIER Amount, and

(ii) a fraction:

(1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and

(2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Alcan Retail Agreement (without regard to whether the Alcan Retail Agreement is then in effect).

4.10 Equity Development Credit. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers does not elect to implement a rebate to its Members, then no later than the first day of the fifth month of the following Fiscal Year, Kenergy will credit against the next Monthly Charge an amount (the "Equity Development Credit") equal to the product of:

- (i) the Excess TIER Amount, and
- (ii) a fraction:
 - (1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and
 - (2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Alcan Retail Agreement (without regard to whether the Alcan Retail Agreement is then in effect).

Notwithstanding the above, the Equity Development Credit for any Fiscal Year may not exceed an amount which would cause the charge for Base Fixed Energy (including Energy curtailed pursuant to Section 4.13.2 or sold to Third Parties pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales) less the Equity Development Credit for such Fiscal Year on a per MWh basis to be less than (A) the Large Industrial Rate for a customer with a 98% load factor plus (B) the sum of the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis).

4.11 Surcharge. In addition to any other amounts payable under this Agreement, and ~~notwithstanding~~ notwithstanding anything in this Agreement to the contrary, Century shall pay a surcharge (the "Surcharge") equal to the sum of the following:

- (a) As applicable:
 - (i) \$241,472 each Billing Month from the Effective Date through and including December, 2011;
 - (ii) \$344,960 each Billing Month from January, 2012 through and including December, 2016;
 - (iii) \$481,188 each Billing Month from January, 2017 through the expiration of the stated Term of this Agreement; plus
- (b) For any Billing Month, the product of (i) Base Fixed Energy and (ii) \$0.60 per MWh; and plus
- (c) For any Billing Month, the product of (i) Base Fixed Energy and (ii) the number of cents per MW per Hour (which number shall not exceed 60 or be less than zero) that Big Rivers' projected annual average costs per MWh for fuel consumed by Big Rivers

in its coal-fired generation as set forth in its Budget are greater than the amounts set forth on Schedule 4.11(c), in each case, for that Fiscal Year relating to such Billing Month. Big Rivers shall within 45 days following the end of each fiscal quarter compute its actual costs per MWh for fuel consumed by Big Rivers' coal-fired generation in each Billing Month for such fiscal quarter and shall calculate (on a fiscal-year-to-date basis in a manner consistent with this Section 4.11(c)) an additional amount to be paid by or credited to Century based on such actual costs incurred for fuel consumed compared to the amounts set forth in the Budget for such Billing Months; *provided*, any additional amounts to be paid by or credited to Century shall be applied to amounts due for the remainder of the Fiscal Year under this Section 4.11(c). Within 120 days of the end of each Fiscal Year, an additional amount shall be credited to Century if necessary so that the total amounts paid pursuant to this Section 4.11(c) for such Fiscal Year shall not exceed an amount equal to the product of Base Fixed Energy for such Fiscal Year and 60 cents per MW per Hour; such amount shall be included as a credit, if applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year; minus

(d) For each of the first 96 Billing Months, \$113,412.

The obligations of Century to pay the Surcharge will cease to accrue upon the termination of this Agreement. Sample calculations of the Surcharge under Section 4.11(c) are set forth in Exhibit A.

4.12 Retail Fee. For any Billing Month, the "Retail Fee" shall, unless modified in accordance with Section 13.1.2, be an amount equal to the sum of:

- (a) the product of:
 - (i) \$0.000045 per kWh, and
 - (ii) the sum of the Base Monthly Energy, Supplemental Energy, and Back-Up Energy purchased by Century pursuant to this Agreement, and
- (b) \$2,614 per month.

4.13 Credits.

4.13.1 Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales. For any Billing Month, Kenergy will credit Century (a) the Net Proceeds of any Surplus Sales pursuant to Section 10.1 to the extent of the Avoidable Base Charge; and (b) the amount of Net Proceeds of any Undeliverable Energy Sales or Potline Reduction Sales to which Century is entitled pursuant to Section 10.2 or Section 10.3, respectively, less \$0.25 per MWh as an administrative fee in each case. Sample calculations of the Net Proceeds from Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales that would be credited to Century are set forth in Exhibit A.

4.13.2 Curtailment of Purchased Power. For any Billing Month, Kenergy will credit Century for any Hour during such Billing Month an amount equal to the product of (a) the Market Reference Rate during such Hour, and (b) the amount of Base Demand per Hour

curtailed, if any, during such Hour in an amount and for a duration mutually agreed among Century, Kenergy and Big Rivers pursuant to this Section 4.13.2 and the corresponding section of the Alcan Retail Agreement. If both Century and Alcan agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.2 and the corresponding section of the Alcan Retail Agreement, Century and Alcan shall notify Kenergy and Big Rivers as to whose curtailment shall take precedence. If Kenergy and Big Rivers are not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Kenergy and Big Rivers first shall take precedence. From time to time, Century shall notify Kenergy and Big Rivers of the minimum price at which it is willing to consider curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.2. Notwithstanding the foregoing, Century hereby releases Kenergy and Big Rivers from any or all claims or liabilities resulting from a failure of Kenergy or Big Rivers to fulfill its obligations pursuant to this Section 4.13.2 (other than applying credits under this Section 4.13.2 to the Monthly Charge), including a failure to notify Century of Energy prices reaching or exceeding the minimum price at which Century will consider curtailment. Sample calculations of credit that would be due to Century for curtailment of purchased power are set forth in Exhibit A.

4.13.3 Economic Sales. For any Billing Month, Kenergy will credit Century 100% of the Net Proceeds Kenergy receives from Big Rivers (which is 75% of the Net Proceeds that Big Rivers receives) in respect of the curtailment of the delivery of Base Demand per Hour in an amount and for a duration mutually agreed among Century, Kenergy and Big Rivers if Big Rivers sells such curtailed Base Demand per Hour to the wholesale Energy market ("Economic Sales"); *provided*, that unless otherwise agreed among Kenergy, Century and Big Rivers, (a) the amount of Base Demand per Hour curtailed by Century may not exceed 100 MW per Hour, (b) the number of curtailments each year shall be limited to twelve, and (c) each curtailment may not last longer than four Hours, and *provided further*, that Big Rivers shall have no obligation to make Economic Sales until after Big Rivers first sells all of its own surplus Energy to the wholesale Energy market. If both Century and Alcan agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.3 and the corresponding section of the Alcan Retail Agreement, Century and Alcan must notify Kenergy and Big Rivers as to whose curtailment shall take precedence. If Kenergy and Big Rivers are not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Kenergy and Big Rivers first shall take precedence. From time to time, Century shall notify Kenergy and Big Rivers of the minimum price at which it is willing to consider curtailment pursuant to this Section 4.13.3. Notwithstanding the foregoing, Century hereby releases Kenergy and Big Rivers from any or all claims or liabilities resulting from the failure of Kenergy or Big Rivers to fulfill its obligations pursuant to this Section 4.13.3 (other than applying credits under this Section 4.13.3 to the Monthly Charge), including a failure to notify Century of Energy prices reaching or exceeding the price of which Century will consider curtailment and the failure to make such sales after such notification. Sample calculations of the portion of the Net Proceeds from Economic Sales that would be credited to Century are set forth in Exhibit A.

4.13.4 Market Energy Sales. For any Billing Month, Kenergy will credit Century all revenues derived from the resale of Market Energy purchased from Third Party Suppliers, net

of any transmission services charges or any other charges or other expenses in connection therewith whenever incurred, that Kenergy receives from the sale of Market Energy to Third Parties pursuant to Section 2.3.2(c)(v). Sample calculations of credit that would be due to Century for such sales of Market Energy are set forth in Exhibit A.

~~4.13.5 Century FAC Reserve Credit.~~

~~(a) — For any Billing Month in 2009 or later in which the FAC Factor (expressed on a MWh basis) exceeds the amount set forth on Schedule 4.13.5 for the year relating to such Billing Month, Kenergy will credit the Monthly Charge by an amount equal to the product of (1) such excess, (2) Base Monthly Energy, and (3) 0.090909. Each credit pursuant to this Section 4.13.5 shall reduce the Monthly Charge owed and the Century FAC Reserve by a corresponding amount. Kenergy will credit the Monthly Charge and the Century FAC Reserve pursuant to this Section 4.13.5 only to the extent that the Century Reserve Account would not be reduced below zero following the application thereof. For purposes of this Section, the “FAC Factor” set forth on Schedule 4.13.5 shall be adjusted to reflect any roll-in after the Effective Date of costs associated with costs recovered under the FAC that are incorporated into base rates comprising a portion of the Large Industrial Rate.~~

~~(b) — Century agrees that upon termination of this Agreement and after the determination of the final Monthly Charge thereunder, any remaining funds in the Century FAC Reserve shall be credited to the Economic Reserve.~~

4.14 Other Amounts. For any Billing Month, any amounts payable pursuant to Section 10.1.4, 10.2.3 or 10.3.7 shall be added to or subtracted as applicable from the calculation of the Monthly Charge.

4.15 Taxes. No state or local sales, excise, gross receipts or other taxes are included in the charges and credits set forth in this Article 4. Century shall pay or cause to be paid any such taxes which are now or hereafter become applicable to the sale of Electric Services to Century under this Agreement.

ARTICLE 5

BILLING

5.1 Monthly Invoice. Kenergy shall bill Century on or before the ~~fifth~~tenth Business Day of each month for the Monthly Charge as calculated pursuant to Article 4 based on the sale of Electric Services during the most recently ended Billing Month plus any other amounts then due and owing pursuant to this Agreement. Century shall pay Kenergy (or Big Rivers on behalf of Kenergy) the Monthly Charge and any other amounts due and owing in immediately available funds to an account designated in the Lockbox Agreement on the Business Day following the 24th day of the month following the Billing Month or such earlier date of such month on which the Members’ payment to Big Rivers for the provision of electric services is due. For the convenience of the Parties, and to facilitate satisfaction of Kenergy’s obligation to Big Rivers, Century hereby acknowledges and consents to the assignment by Kenergy to Big Rivers of its right to receive such payment from Century under this Agreement other than with respect to the

Retail Fee and Kenergy's rights to collect and enforce collection of such amounts due from Century. If Big Rivers owes credits or funds to Kenergy for the benefit of Century, Kenergy hereby assigns such credits or funds to Century and shall cooperate with and assist Century with respect to any collections of amounts due from Big Rivers to Kenergy; *provided*, that Century shall reimburse Kenergy for any reasonable expenses Kenergy incurs in providing such cooperation or assistance.

5.2 Right to Discontinue Service. If Century fails to pay any monthly invoice rendered by Kenergy (or Big Rivers on behalf of Kenergy) within the time prescribed in Section 5.1, Kenergy may discontinue delivery of any or all Electric Services hereunder upon 120 Hours prior written notice to Century and Big Rivers of its intention to do so. Kenergy's discontinuance of such service for non-payment will not in any way affect, diminish or limit the obligations of Century to make all payments required under this Agreement, as and when due.

5.3 Default Interest. If any monthly invoice rendered by Kenergy (or Big Rivers on behalf of Kenergy) is not paid on the due date, interest will accrue and become payable by Century to Kenergy on all unpaid amounts at a rate of four percentage points over the Prime Rate commencing on the first day after the due date.

5.4 Payments Under Protest. If any portion of any monthly statement is disputed by Century, the disputed amount must be paid, under protest, when due. If the disputed amount of the payment is found to be incorrect, following receipt from Big Rivers, Kenergy (or Big Rivers on behalf of Kenergy) shall promptly cause to be refunded to Century the amount that was not then due and payable, together with interest at the Prime Rate commencing on the first day after the date of payment and accruing on each day thereafter until the date the refund is made.

5.5 Release and Indemnification.

(a) Century (i) shall release Kenergy from any and all claims Century may have against Kenergy for the failure of Big Rivers to satisfy its obligations under the Century Wholesale Agreement, and (ii) agrees to indemnify, hold harmless and defend Kenergy from and against any and all claims Big Rivers may assert against Kenergy in connection with any failure by Big Rivers to perform under the Century Wholesale Agreement, but only if Kenergy shall have fully performed its obligations set forth in clause (b) below.

(b) If Big Rivers shall default under the Century Wholesale Agreement, Kenergy shall immediately deliver to Century (i) a power-of-attorney with full power of substitution which shall designate Century or its designee as Kenergy's attorney-in-fact (which shall be coupled with an interest and irrevocable) for purposes of negotiating and prosecuting any and all claims Kenergy may have against Big Rivers for a failure of Big Rivers to satisfy its obligations under the Century Wholesale Agreement and to file or prosecute any claim, litigation, suit or proceeding before any Governmental Authority in the name of Kenergy or in its own name, or take such other action otherwise deemed appropriate by Century for the purposes of obtaining legal or equitable relief as a result of the failure of Big Rivers to satisfy its obligations under the Century Wholesale Agreement and to compromise, settle, or adjust any suit, action or proceeding related to Big Rivers' failure to satisfy such obligations and to give such discharges or releases as Century may deem appropriate, and (ii) an assignment conveying

to Century all of Kenergy's right, title and interest in and to any legal, equitable or other relief, including the recovery of damages and the grant of injunctive relief or other remedies to which Kenergy may be entitled with respect to Big Rivers' failure to satisfy its obligations under the Century Wholesale Agreement. The power-of-attorney and the assignment shall be in form and substance reasonably satisfactory to Century and shall be legally effective and enforceable under Kentucky or other Applicable Law.

5.6 No Waiver. No payment made by Century pursuant to this Article 5 will constitute a waiver of any right of Century to contest the correctness of any charge or credit.

5.7 No Payment. In no case shall Kenergy or Big Rivers be obligated to make a payment to Century in connection with the application of a credit to Century's Monthly Charges except to the extent otherwise expressly provided in Section 10.2.1(a) with respect to Undeliverable Energy Sales.

ARTICLE 6

EFFECTIVE DATE AND CONDITIONS

6.1 Effective Date. The obligations of the Parties under Article 2, Article 3, Article 4, Article 5, Section 7.3, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 14 and Section 16.5 shall not commence until the Effective Date. The "Effective Date" will occur on the first date each of the conditions set forth in Section 6.2 has been satisfied in full or waived in writing by the Party in whose favor such condition exists (to the extent one or more conditions is subject to being waived).

6.2 Conditions to Occurrence of Effective Date. The following shall be conditions to the occurrence of the Effective Date:

6.2.1 Each of the representations and warranties of the Parties contained in this Agreement and the representations and warranties of Big Rivers and Kenergy in the Century Wholesale Agreement will be true and correct as of the date hereof and the Effective Date (as though such representations and warranties were made at and as of the date hereof and the Effective Date), and each of the Parties shall have received a certificate to such effect from the other Party with respect to the other Party's representations and warranties in this Agreement and Century shall have received a certificate to such effect from Kenergy and Big Rivers in respect of their respective representations and warranties in the Century Wholesale Agreement.

6.2.2 The Unwind Transaction will have been consummated, including the termination of the agreements set forth on Schedule 6.2.2.

6.2.3 Each of the documents and agreements set forth in Schedule 6.2.3 will have been duly authorized, executed and delivered by the parties thereto, and all conditions precedent to the effectiveness of such agreements will have been satisfied or waived, and shall, if amended after the date hereof and prior to the Effective Date, be acceptable to Century.

6.2.4 The Century Wholesale Agreement shall be acceptable in form and substance to Century and shall not have been amended, or, if amended, shall be acceptable in form and substance to Century.

6.2.5 The Century Guarantee will have been duly authorized, executed and delivered by Century Parent and be in full force and effect.

6.2.6 Release documents releasing of the liabilities and obligations under the documents listed on Schedule 6.2.2 will have been duly authorized, executed and delivered by Big Rivers, Kenergy, Alcan, LG&E and Century, as applicable.

6.2.7 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary prior to start of the Service Period, other than (i) as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time after the Effective Date and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Kenergy has no reason to believe will not be timely obtained and in each case which do not prevent provision of Electric Services as described herein, and (ii) with respect to the approval of the KPSC or FERC, on the Effective Date, such approvals will have been duly given or issued, received and will be in full force and effect and unappealable, and all conditions therein will have been satisfied to the extent required to be satisfied by Kenergy or Big Rivers on or prior to the Effective Date.

6.2.8 The Century Wholesale Agreement, the Alcan Wholesale Agreement and the Alcan Retail Agreement will have been duly authorized, executed and delivered by the parties thereto and be in full force and effect and all conditions precedent to the effectiveness will have been satisfied or waived other than conditions within the control of Kenergy or conditions that automatically will become effective simultaneously with the Effective Date or the Unwind Transaction.

6.2.9 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary for the execution, delivery or performance by Century of its obligations under this Agreement.

6.2.10 RUS shall have consented to the Unwind Transaction and the New Transaction and to all arrangements and agreements required to implement the Unwind Transaction and the New Transaction.

6.3 Efforts to Satisfy Conditions to Effective Date. Each of the Parties shall use commercially reasonable efforts and act in good faith to satisfy all of the conditions set forth in Section 6.2 at the earliest practicable date (other than those which the applicable Party agrees to waive). At such time as Kenergy or Century believes such conditions have been satisfied, such Party shall notify the other Party in writing. The obligations of the Parties under this Section 6.3 will continue until the earlier of (a) such time as this Agreement terminates pursuant to Section 7.2, and (b) the Effective Date.

ARTICLE 7

TERM AND TERMINATION

7.1 Term. Subject to Section 6.1, this Agreement will become binding on the Parties on the date of execution and delivery by the Parties and will remain in full force and effect until December 31, 2023 (the "Term"), unless earlier terminated pursuant to the terms hereof.

7.2 Termination Prior to Effective Date. This Agreement may be terminated without cost or penalty prior to the occurrence of the Effective Date in accordance with this Section 7.2.

7.2.1 Termination for Failure to Satisfy Conditions to Effective Date. Either Party may terminate this Agreement without cost or penalty by providing five Business Days' prior written notice of termination to the other Party upon the failure of the conditions in Sections 6.2 to be satisfied in full or waived by the Person in whose favor the condition exists on or before October 1, 2008, [_____], or such later date as the Parties may agree, unless any such condition is satisfied or waived by the applicable Person within such five Business Day period.

7.2.2 Termination In Event Unwind Transaction Will Not Be Consummated. This Agreement may be terminated by either Party at any time prior to the Effective Date upon receipt of notice from LG&E or Big Rivers that either LG&E or Big Rivers does not intend to consummate the Unwind Transaction.

7.2.3 Termination Due to KPSC Modification. If the KPSC issues an order on any of the filings by Big Rivers or other Persons seeking necessary approvals for the Unwind Transaction and the New Transaction that disapproves or changes the pricing or other material terms of this Agreement or the Century Wholesale Agreement or Big Rivers' ability to recover costs from the Smelters or the Non-Smelter Ratepayers other than as contemplated in connection with the New Transaction, either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Big Rivers no later than three Business Days after the first to occur of the following: (i) the last date on which a petition for re-hearing may be filed if such a petition has not been filed, (ii) the date on which the KPSC issues an order denying the request for re-hearing for any petition for re-hearing that may have been filed during the allowed period and (iii) if a rehearing occurs, following the date on which an order on rehearing is issued.

7.2.4 Termination Due to Business Judgment.

(a) Either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Big Rivers if it determines in its business judgment, exercised in good faith, that based on information considered by it, including information provided by Big Rivers, Big Rivers' operations cannot produce during the first five years of the Service Period the charges projected in Big Rivers' financial model and filed with the KPSC in the application for approval of the New Transaction.

(b) Century may terminate this Agreement without cost or penalty by providing written notice of termination to Kenergy and Big Rivers if it determines in its business

judgment, exercised in good faith, that there has been a material adverse change in the production facilities of Century or a material change in economic or business factors external to the terms of the New Transaction, that would have a material adverse financial effect on Century if the New Transaction is consummated.

7.2.5 Century Wholesale Agreement Termination. Kenergy may terminate this Agreement if Big Rivers terminates the Century Wholesale Agreement prior to the Effective Date.

7.2.6 Effect of Pre-Effective Date Termination. If this Agreement is terminated in accordance with this Section 7.2, Kenergy and Century acknowledge and agree that the Existing Century Agreement and the Kenergy/LG&E Contract and all other related documents and agreements will continue in full force and effect as if this Agreement had not been executed and delivered by the Parties.

7.3 Termination After the Effective Date. This Agreement may be terminated after the occurrence of the Effective Date in accordance with this Section 7.3.

7.3.1 Termination for Closing of Hawesville Smelter.

(a) Century may terminate this Agreement as of a date not less than one year from the date it provides written notice (a “Notice of Termination for Closure”) to Kenergy and Big Rivers of the termination of this Agreement in accordance with this Section 7.3 in connection with the termination and cessation of all aluminum smelting operations at the Hawesville Smelter.

(b) No termination pursuant to Section 7.3.1(a) may be effective prior to December 31, 2010. If Alcan has given a “Notice of Termination for Closure” under the Alcan Retail Agreement prior to the delivery of Notice of Termination for Closure by Century and if the Transmission Upgrade (as defined in the Century Wholesale Agreement) has not been completed at the time of such termination, Century may not exercise its right to terminate this Agreement pursuant to this Section 7.3.1 with an effective date prior to December 31, 2011. To be effective, any Notice of Termination for Closure must be accompanied by a certificate of the president of Century Parent including a representation and warranty that it has made a business judgment in good faith to terminate and cease all aluminum smelting at the Hawesville Smelter and has no current intention of re-commencing smelting operations at the Hawesville Smelter.

7.3.2 Termination for Event of Default. This Agreement may be terminated following the occurrence and during the continuation of an Event of Default pursuant to Article 14.

ARTICLE 8

METERING

8.1 Metering Facilities. Kenergy will provide or cause to be provided metering facilities at the Point of Delivery which measure Hourly kW, kWh, kilovars, kilovar-hours and voltage fluctuation spectra.

8.2 Reading. Kenergy will read or cause to be read the meters at the Point of Delivery on the last date of each month (or such other date as may be agreed upon by the Parties).

8.3 Testing. Kenergy will test, or cause to be tested, the calibration of the meters at the Point of Delivery by comparison of accurate standards at least once every twelve months (or more often if so required by Applicable Law) and will give Century not less than five Business Days' prior notice of such testing. Century will have the right to observe and participate in all meter tests. Meters registering not more than plus or minus 1% inaccurate will be deemed to be accurate (unless Applicable Law establishes a standard more stringent than 1%, in which case, the more stringent standard will apply). The reading of any meter which will have been disclosed by tests to be inaccurate will be corrected for the 60 days before such tests (or for such shorter period if applicable) in accordance with the percentage of inaccuracy found by such tests. If any meter should fail to register for any period, the Parties and Big Rivers will make mutually agreed upon estimates for such period from the best information available. If Century requests a special meter test, Kenergy shall cause such test to be conducted; *provided, however*, that if any special meter test made at the request of Century discloses that the meters are not more than plus or minus 1% inaccurate, Century shall reimburse Kenergy for the reasonable cost of such test. In all other respects, meters through which Kenergy delivers Energy to Century shall be installed, operated, maintained and tested in accordance with all Applicable Law and Prudent Utility Practice.

ARTICLE 9

OPERATIONAL MATTERS

9.1 Operations and Operational Responsibility. In carrying out the requirements of this Agreement, each Party will comply with the reliability criteria, standards, guidelines and operating procedures of any national electric reliability organization, SERC, Applicable Law and any regional transmission organization (if applicable), and neither Party will be required to take any action in violation of any thereof.

9.1.1 Kenergy will operate and maintain or cause to be operated and maintained all of the ~~any~~ facilities owned by it on the premises of Century.

9.1.2 Century will operate and maintain, or cause to be operated and maintained, all of the facilities and equipment owned by it.

9.2 Facilities Provided by Kenergy. Kenergy has caused to be furnished and installed, or shall cause to be furnished or installed, all of the facilities required for the delivery of Energy to the Point of Delivery, as well as the 161 kilovolt transmission lines required between the Point of Delivery and Century's electrical substation. Kenergy shall install and maintain, or shall cause to be installed and maintained, any and all interconnection equipment, metering, or substation equipment, and other equipment, including switching and protective equipment, necessary to deliver Energy to Century at the Point of Delivery. Kenergy will keep or cause to be kept, all such equipment in good working order, condition and repair (ordinary wear and tear excepted) such that all such equipment is capable of operating, consistent with

Prudent Utility Practice, to the extent necessary to assure sufficient capability to take and use the Electric Services to be delivered by Kenergy to Century as provided for in this Agreement.

9.3 Facilities Provided by Century.

9.3.1 Century has provided or shall provide, without cost to Kenergy or Big Rivers all easements for rights-of-way upon Century's property at the Hawesville Smelter (at such locations and of such dimensions as may be mutually agreed upon) for Big Rivers' transmission lines and for any Kenergy distribution lines.

9.3.2 Century has furnished and installed, shall furnish and install, or cause to be furnished or installed, such facilities and equipment as may be necessary to enable it to receive and use Energy purchased hereunder at and from Century's substation located adjacent to the Hawesville Smelter, including such protective devices as may be reasonably necessary to protect Big Rivers' transmission system from disturbance caused by Century. Additional plans for equipment to be installed for such protection of the facilities of Kenergy or Big Rivers shall be submitted to Kenergy and Big Rivers for prior approval.

9.4 Curtailment. If Big Rivers determines in accordance with Prudent Utility Practice, or in compliance with any national electric reliability organization, SERC, Applicable Law and other regulation, any applicable regional transmission organization, or other applicable operating criteria or rules, that a System Emergency has occurred or is imminent, and after suspending or reducing deliveries to Persons purchasing interruptible Energy from Big Rivers, Kenergy may suspend or reduce the delivery of Energy hereunder and may cease to make available in whole or in part the Electric Services, in each case to the extent caused by, or that Kenergy or Big Rivers determines necessary or prudent under the circumstances to prevent or attempt to prevent, or counter or reduce the effects of, such System Emergency. Century acknowledges and agrees that any curtailment caused by a System Emergency (or for any other reason) that cannot be avoided after the suspension or reduction of deliveries to Persons purchasing interruptible Energy from Big Rivers will be effected in a non-discriminatory manner consistent with Big Rivers' then-current policies and procedures. Kenergy shall request Big Rivers notify Century as to the occurrence or threatened occurrence of any System Emergency or other event that may require curtailment, its cause and its impact on the delivery of Energy or the provision of Electric Services, as soon as practicable. Kenergy will not be obligated to supply Electric Services to the extent suspended or curtailed as a result of the System Emergency.

9.5 Ownership and Removal of Equipment. Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed, by either of the Parties hereto (or by Big Rivers) on or in the premises of the other Party (or Big Rivers) to receive service under this Agreement shall be and remain the property of the Party (or Big Rivers) owning and installing such equipment, apparatus, devices or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement or any extension thereof, the owner (including, if applicable, Big Rivers) of any equipment, apparatus, devices or facilities on the property of a Party shall have the right to enter upon the premises of that Party, and shall, within a reasonable time and at the sole expense of the owner, remove such equipment, apparatus, devices or facilities.

9.6 Right of Access. Century grants the duly authorized agents and employees of Kenergy and Big Rivers the right to reasonable access to the premises of Century to the extent reasonably required for the purposes of installing, repairing, inspecting, testing, renewing or exchanging any or all of its equipment located on the premises of Century, for reading or testing meters, or for performing any other work incident to the performance of this Agreement. Kenergy or Big Rivers shall make reasonable advance arrangements before entering the premises of Century.

9.6.1 Century shall use commercially reasonable efforts to properly protect the property of Kenergy or Big Rivers, located on its premises, and shall permit no Person to inspect or adjust the wiring and apparatus of Kenergy (or Big Rivers) except with Kenergy's consent. Neither Party assumes the duty or responsibility of inspecting the wiring or apparatus of the other Party.

9.6.2 Century grants to Kenergy and its agents and employees a license to enter Century's electrical substation located adjacent to the Hawesville Smelter and upon Century's easements and rights-of-way to accomplish the purposes of this Agreement, *provided* that reasonable advance arrangements appropriate under the circumstances are made.

ARTICLE 10

COVENANTS

10.1 Surplus Sales.

10.1.1 Century may request that Kenergy sell Energy through Big Rivers which is surplus to Century's needs by delivering prior written notice to Kenergy and Big Rivers (a) identifying the portion of Base Demand per Hour Century requests Kenergy and Big Rivers sell and the associated times and duration of the requested sales, and (b) agreeing to curtail its demand per Hour so Century's actual demand and the Energy sold pursuant to this Section 10.1 ("Surplus Sales") is not expected to exceed the Base Demand per Hour. Kenergy and Big Rivers shall have no obligation to make Surplus Sales if the portion of Base Demand per Hour Century requests to be sold exceeds the Base Demand per Hour or is less than ten MW or not in integral multiples of one MW. For the avoidance of doubt, Surplus Sales shall not include sales of Economic Sales, Undeliverable Energy Sales or Potline Reduction Sales. Any request by Century pursuant to this Section 10.1 shall be irrevocable following Big Rivers' entry into contractual obligations with a Third Party relating to such Surplus Sales.

10.1.2 Century acknowledges and agrees that Big Rivers and Kenergy shall have no obligation to use any efforts to make Surplus Sales if Big Rivers, in its sole discretion exercised in good faith, estimates the Net Proceeds therefrom would be less than \$1.00 per MWh in excess of the sum of the Base Variable Rate, the FAC Factor, the Non-FAC Purchased Power Adjustment Factor and the Environmental Surcharge Factor (each calculated on a per MWh basis). Century acknowledges that neither Kenergy nor Big Rivers will have any obligation to market or resell Energy pursuant to this Section 10.1 (a) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy, or (b) if Big Rivers is unable to sell any or all

Energy as a result of transmission constraints (whether on or off Big Rivers' transmission system) or other constraints, including constraints imposed by Applicable Law.

10.1.3 For the avoidance of doubt, nothing in this Section 10.1 shall relieve Century of its obligation for the Base Energy Charge or the TIER Adjustment Charge or any other portion of the Monthly Charge pursuant to Article 4.

10.1.4 For any applicable Surplus Sale, (i) Century shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Surplus Sale over the estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale, and (ii) Kenergy shall pay to Century, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale over the actual income tax liability of Big Rivers relating to such Surplus Sale.

10.2 Undeliverable Energy Sales.

10.2.1 Century shall notify Kenergy and Big Rivers of the occurrence of (i) any event which results in damage to or destruction of plant or equipment that renders all or a portion of the Hawesville Smelter unfit for normal use and limits Century's ability to engage in aluminum reduction operations thereat; (ii) Century's demand is initially reduced by at least 50 MW per Hour or more as a result thereof; (iii) such limitation is expected to continue for a period of 48 consecutive hours or longer; and (iv) the proximate cause of such casualty is not an intentional misconduct or willful misconduct of Century or any of its Affiliates. If and to the extent directed by Century, Kenergy immediately will request Big Rivers to use reasonable commercial efforts to sell an amount of Energy up to the corresponding reduction in Century's demand as a result of such event during the continuance of such limitation, subject to the same terms, conditions and limitations as set forth for Surplus Sales in Section 10.1. The sales of Energy described in this Section 10.2 shall be referred to as "Undeliverable Energy Sales." Century may provide such notice orally if followed promptly by written notice.

(a) For a period of up to six months from the date of the occurrence of such event, all of the Net Proceeds of any such sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge or, if in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Century. Upon Century providing a certificate representing that the event can not be remedied with reasonable diligence within six months, Century's rights under this Section 10.2 shall be extended for an additional period up to three months.

(b) Upon expiration of the period of Century's rights under this Section 10.2, neither Kenergy nor Big Rivers shall have any obligations to sell or cause to be sold Energy to a Third Party which otherwise would be available for purchase by Century hereunder except as otherwise expressly required pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, or Section 10.3 as Potline Reduction Sales. Undeliverable Energy Sales may not be greater than Base Demand per Hour.

(c) If the circumstances described in clauses (i), (ii), and (iv) of this Section 10.2.1 do not continue for a period of 48 consecutive hours or longer, such sales of Energy will be treated as Surplus Sales under Section 10.1 unless Section 10.3 applies.

10.2.2 CENTURY HEREBY WAIVES ANY AND ALL FUTURE CLAIMS OR OTHER RIGHTS FOR DAMAGES FROM KENERGY OR BIG RIVERS IN CONNECTION WITH ANY EVENT GIVING RISE TO OR RELATING TO AN EVENT RESULTING IN CENTURY NOT BEING ABLE TO ACCEPT ENERGY AS CONTEMPLATED BY SECTION 10.2.1, *PROVIDED* THAT THIS WAIVER SHALL NOT APPLY TO CLAIMS FOR DAMAGES OR OTHER REMEDIES BROUGHT BY THIRD PARTIES WHICH ARE NOT AFFILIATES, OFFICERS, DIRECTORS OR EMPLOYEES OF CENTURY. THIS WAIVER SHALL ALSO NOT APPLY TO CLAIMS FOR DAMAGES OR OTHER REMEDIES FROM KENERGY OR BIG RIVERS BROUGHT BY CENTURY OR ITS SUBROGEE IN CONNECTION WITH A CIRCUMSTANCE WHERE (I) CENTURY IS UNABLE TO ACCEPT ENERGY AS CONTEMPLATED IN SECTION 10.2.1, (II) BIG RIVERS IS UNABLE TO DELIVER ENERGY TO THE SMELTERS, AND (III) BIG RIVERS IS UNABLE TO MAKE UNDELIVERABLE ENERGY SALES FROM ITS OWN GENERATING FACILITIES PURSUANT TO SECTION 10.2.1 ALL AS A RESULT OF INTENTIONAL MISCONDUCT OR WILLFUL MISCONDUCT OF BIG RIVERS.

10.2.3 For any applicable Undeliverable Energy Sale, (i) Century shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Undeliverable Energy Sale over the estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale, and (ii) Kenergy shall pay to Century, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale over the actual income tax liability of Big Rivers relating to such Undeliverable Energy Sale.

10.3 Potline Reduction Sales.

10.3.1 Century may request Kenergy cause Big Rivers to sell 115 MW (plus or minus 10 MW) per Hour to Third Parties (such sales of Energy are referred to as "Potline Reduction Sales"), such amount subject to Section 10.3.2 below, on either a Firm basis or a System-Firm basis by delivering not less than 30 days' prior notice to Kenergy and Big Rivers (which notice Kenergy and Big Rivers shall keep confidential) if (i) Century has ceased or will cease all aluminum smelting operations on one and only one of its potlines at the Hawesville Smelter (a "Potline Reduction"); (ii) Century is reasonably likely to be able to continue aluminum smelting operations with respect to all of its other potlines at the Hawesville Smelter as a result of the cessation of aluminum smelting operations on the potline referred to in clause (i); (iii) Century in good faith reasonably estimates the duration of such cessation will equal or exceed 12 months; and (iv) no Potline Reduction Sales have been made for a period of twelve consecutive months prior to the date of such notice. Such notice also shall state the requested duration of the sales of Energy and must be accompanied by a certificate of an officer of Century Parent certifying as to the matters set forth in clauses (i), (ii), (iii), and (iv) above.

10.3.2 Century, Kenergy and Big Rivers shall reasonably cooperate on a schedule for the graduated reduction and, in the case of a potline restoration, the graduated increase in Century's demand in such amounts and over a period of time as is mutually satisfactory.

10.3.3 Century may not withdraw its request for Potline Reduction Sales to the extent that Big Rivers has a legally binding agreement with a Third Party for Potline Reduction Sales (a "Potline Reduction Sales Agreement"), provided that Century may at any time terminate the Potline Reduction and assume responsibility for acquiring Market Energy required during the remainder of the Potline Reduction Sales Agreement.

10.3.4 Century acknowledges that neither Kenergy nor Big Rivers will have any obligation to market or resell Energy pursuant to this Section 10.3 (i) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy available for sale or (ii) to the extent Big Rivers is unable to make Potline Reduction Sales as a result of transmission constraints (whether on or off Big Rivers' transmission system) or other constraints, including constraints imposed by Applicable Law.

10.3.5 Kenergy and Big Rivers shall consult with Century and agree on the Potline Reduction Sales that will be made on a Firm basis or a System Firm basis and the terms of same. To the extent Century requests the Potline Reduction Sales be made on a Firm basis, Century agrees that if during the term of such sale or sales Big Rivers is required to purchase replacement Energy or otherwise make payments to meet such Potline Reduction Sales on a Firm basis, Century will reimburse Kenergy for the benefit of Big Rivers the full cost of such actions and indemnify Kenergy and Big Rivers for any costs, obligations or liabilities incurred by either of them, including liabilities to Third Parties.

10.3.6 All of the Net Proceeds of any Potline Reduction Sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge from the effective date of the notice pursuant to Section 10.3.1 until the Cut-Off Date or, if such amount is in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Century. The "Cut-Off Date" shall mean the earliest to occur of (a) the first day of the 49th Billing Month after the effective date of the notice given under Section 10.3.1, (b) a date specified in a written notice, if any, by Century to Kenergy and Big Rivers, (c) the earlier of the date (i) one year after the date Century commences smelting operations with respect to one or more pots on the suspended potline or (ii) all Potline Reduction Sales Agreements have been terminated or expired after Century commences smelting operations with respect to one or more pots on the suspended potline. Sales of Energy after the Cut-Off Date shall be Surplus Sales pursuant to Section 10.1 and not Potline Reduction Sales pursuant to this Section 10.3. Century agrees that it shall not be permitted to extend the term of Potline Reduction Sales beyond forty-eight months, provided that nothing in this Section 10.3.6 shall preclude Century from providing a new notice under Section 10.3.1 after aluminum smelting operations at the suspended potline have been restored.

10.3.7 For any Potline Reduction Sale, (i) Century shall pay to Kenergy for payment to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Potline Reduction Sale over the estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale, and

(ii) Kenergy shall pay to Century, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale over the actual income tax liability of Big Rivers relating to such Potline Reduction Sale.

10.3.8 For the avoidance of doubt, (i) Potline Reduction Sales shall not include Surplus Sales, Economic Sales or Undeliverable Energy Sales; (ii) nothing in this Section 10.3 shall be construed to relieve Century of its obligation with respect to the Base Monthly Charge, the TIER Adjustment or other components of the Monthly Charge payable pursuant to Article 4; and (iii) nothing in this Agreement precludes Undeliverable Energy Sales under Section 10.2 from becoming Potline Reduction Sales if all conditions of this Section 10.3 are met.

10.4 Resale. Century may not resell or cause to be resold any Electric Services purchased from Kenergy under this Agreement, except as expressly permitted in this Agreement or with the prior written consent of Kenergy and Big Rivers, which may be withheld by either of them in their sole discretion. Century shall consume all Energy purchased under this Agreement in connection with the operation of its Hawesville Smelter except as expressly permitted pursuant to this Agreement.

10.5 Refund of Income Tax Estimated for Net Proceeds. Kenergy shall return to Century any income taxes deducted in calculating the Net Proceeds of a sale of Energy by Big Rivers which Big Rivers ultimately determines are not to be required to be paid due to the application of a net operating loss carry-forward of Big Rivers that existed on the Effective Date and that otherwise would have expired unused.

ARTICLE 11

UNCONTROLLABLE FORCES

11.1 Occurrence of an Uncontrollable Force. No Party will be considered to be in breach or default in the performance of any of its obligations under this Agreement if the failure of performance is due to an Uncontrollable Force, except as otherwise provided in this Article 11. If either Party is unable, in whole or in part, by reason of Uncontrollable Force to carry out its obligations, then the obligations of the Parties, to the extent that they are affected by such Uncontrollable Force, will be suspended during the continuance of any inability so caused, but for no longer period. A Party will not be relieved of liability for failing to perform if such failure is due to causes arising out of its own negligence or willful acts or omissions.

11.2 Mitigation. A Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise due diligence to remove or remedy such inability as promptly as reasonably possible. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

11.3 Notice of Uncontrollable Force. A Party shall notify the other Party at the earliest practicable time following (i) the occurrence of any Uncontrollable Force which renders such Party incapable of performing hereunder or (ii) the time at which such Party has reason to expect that such an Uncontrollable Force is imminent. Kenergy also shall notify Century if it receives

notice from Big Rivers that Big Rivers anticipates that it will be unable to perform its obligations to Kenergy under any contract or agreement that affects Kenergy's performance under this Agreement due to an Uncontrollable Force and Century is not an additional addressee of such notice.

11.4 Payment Obligations. Notwithstanding anything in this Agreement to the contrary, the occurrence of an Uncontrollable Force shall not relieve Century of its payment obligations under Article 4, including its payment obligations with respect to the Base Energy Charge. CENTURY ACKNOWLEDGES AND AGREES THAT THE PROVISIONS OF SECTION 10.1 (SURPLUS SALES), SECTION 10.2 (UNDELIVERABLE ENERGY SALES) AND SECTION 10.3 (POTLINE REDUCTION SALES) SHALL CONSTITUTE CENTURY'S SOLE AND EXCLUSIVE REMEDIES IN THE EVENT THAT CENTURY IS UNABLE TO RECEIVE ENERGY INCLUDING IF THAT INABILITY IS CAUSED BY AN UNCONTROLLABLE FORCE.

ARTICLE 12

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of Kenergy. Kenergy hereby represents and warrants to Century as follows:

12.1.1 Kenergy is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligation hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the Term hereof.

12.1.2 The execution, delivery and performance of this Agreement by Kenergy have been duly and effectively authorized by all requisite corporate action.

12.2 Representations and Warranties of Century. Century hereby represents and warrants to Kenergy as follows:

12.2.1 Century is a general partnership duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky and is authorized to do business in the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the Term hereof.

12.2.2 The execution, delivery and performance of this Agreement by Century have been duly and effectively authorized by all requisite partner action.

ARTICLE 13

ADDITIONAL AGREEMENTS

13.1 Regulatory Proceedings.

13.1.1 *Proceedings That Affect Rates.*

(a) The Parties acknowledge and agree that

(i) Big Rivers shall have the right to seek KPSC approval for changes to the Non-Smelter Member Rates from time to time, but Big Rivers shall not seek an increase in its base rates to take effect before January 1, 2010, excluding any roll-in to Big Rivers' base rates of costs that would otherwise be recovered by the Environmental Surcharge or the FAC; and

(ii) Big Rivers will not seek to implement a wholesale rate reduction other than the Rebate to its Members under the procedures available in KRS 278.455 without the consent of Century;

provided that this commitment by Big Rivers will have no effect on the availability to Kenergy of the procedures in KRS 278.455 to flow-through any wholesale rate decrease to the Non-Smelter Ratepayers.

(b) Century shall have the right to intervene and participate in any proceeding that may affect rates at the KPSC or FERC or before any other Governmental Authority. Neither Kenergy nor Century will support or seek, directly or indirectly, from any Governmental Authority, including the KPSC, any challenge to or change in the rate formula set forth in this Agreement or other terms and conditions set forth herein, including the relationship of the Large Industrial Rate to amounts payable by Alcan pursuant hereto, except that any Party may initiate or intervene in a proceeding to (i) clarify, interpret or enforce this Agreement, or (ii) challenge the applicable rate for Transmission Services should those services be unbundled for purposes of calculating the Large Industrial Rate. For the avoidance of doubt, Century's intervention and participation in a regulatory proceeding involving cost of service issues relating to the rates of the Non-Smelter Ratepayers shall not be considered a challenge to the rate formula.

(c) If *Commonwealth of Kentucky ex rel. Gregory D. Stumbo, Attorney General v. Public Service Comm'n and Union Light, Heat and Power Co.*, Franklin Circuit Court, C.A. No. 06-CI-269, or any Applicable Law relating thereto restricts the amounts recovered under the FAC, Appendix A, or the Environmental Surcharge Rider, then Kenergy, Century, Big Rivers and, if the Alcan Retail Agreement is then in effect, Alcan, shall negotiate in good faith to amend this Agreement (and other agreements entered into in connection herewith) to restore the relative rights and economic benefits thereunder. If such parties are unable to reach an agreement on such amendments, then this Section 13.1.1 shall not restrict Big Rivers from seeking KPSC approval for an increase to its base rates or an amendment to the FAC, Appendix A, or the Environmental Surcharge Rider.

13.1.2 *Kenergy Retail Fee.* Kenergy or Century may seek approval of any changes to the Retail Fee not earlier than ten years after the Effective Date of this Agreement.

13.1.3 *KPSC Jurisdiction.* Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC over Kenergy, Big Rivers or the rates, terms and conditions of Electric Service to Century.

13.1.4 *Notice of Material Filings.* Kenergy shall provide or cause to be provided to Century a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff, or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

13.2 Audit Rights. Kenergy will permit Century to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Kenergy relating to its service to Century under this Agreement, including scheduled usage, meter records and billing records. Kenergy shall retain all documentation applicable to service to Century under this Agreement for a period of three years beyond the date of the service. *Nothing in this Section 13.2 shall obligate Kenergy to disclose attorney-client privileged information.*

13.3 Century Credit Support. Century shall (i) if the rating of the unenhanced, unsecured debt obligations of Century Parent with Standard & Poor's is not "A+" or higher (and in addition, if Century Parent has such a rating from Moody's, that rating with Moody's is not "A1" or higher), provide and maintain credit support in the form of a letter of credit from a bank rated "A+" or higher, or other credit support acceptable to Big Rivers and Kenergy, in an amount equal to the amounts estimated by Big Rivers to be due to Big Rivers and Kenergy with respect to Century's obligations under this Agreement for a period of two months and any amount which Big Rivers estimates reasonably could be due with respect to taxes relating to any sale of Energy pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales ("Potential Tax Liability"); and (ii) cause Century Parent to guarantee to Big Rivers and Kenergy the payment and performance of all obligations of Century under this Agreement, including Potential Tax Liability, and the other documents entered into by Century and its affiliates in connection with the New Transaction pursuant to a Guarantee Agreement executed by Century Parent in favor of Big Rivers and Kenergy which shall be satisfactory in form and substance to Big Rivers and Kenergy (the "Century Guarantee"). *At the request of Big Rivers or Kenergy, Century will maintain the Century Guarantee until closure of all applicable tax years of Big Rivers. At the request of Century, Kenergy shall request that Big Rivers provide Century with information as to the amount and calculation of the estimated Potential Tax Liability and documentation in support thereof.*

13.4 Patronage Capital.

13.4.1 Kenergy is a non-profit Kentucky corporation that, during any calendar year, may realize revenues from its own operations in excess of related expenses ("margins"). For financial accounting purposes, such margins have been and shall continue to be recorded as patronage capital held for the benefit of Kenergy's customers. Such patronage capital shall be recorded by Kenergy for the benefit of Century as earned during the term of this Agreement

13.4.2 Kenergy will not permit any amendments or modifications of its Bylaws that would adversely affect the rights of Century to distributions of patronage capital or payments on account of property rights of the Members distributed by Big Rivers to Kenergy.

13.4.3 Kenergy agrees that Century will share on a nondiscriminatory basis in the allocations of patronage capital and payments on account of property rights of Members distributed by Big Rivers to Kenergy and that such allocations shall be promptly distributed to Alcan.

13.4.4 The expiration or earlier termination of this Agreement shall not modify or revoke the then existing entitlement of Alcan to allocations or distributions of patronage capital or the entitlement of Century to payments on account of property rights as set forth in this Section 13.4 when such property rights are determined.

13.4.5 Kenergy and Century agree that the provisions of this Section 13.4 are not the exclusive provisions for determining Century's entitlement to distributions by Kenergy of patronage capital or payments on account of property rights.

13.5 Post-Termination Obligation. Subject to Section 13.7, upon termination of this Agreement, neither Kenergy nor Big Rivers will have any contractual obligation under this Agreement to supply any capacity, Energy or other related services to Century.

13.6 Negotiation of Replacement Agreement. If this Agreement has not been terminated earlier, Kenergy shall negotiate in good faith with Century and Big Rivers, no later than January 1, 2023, concerning rates and terms and conditions for new power supply arrangements following the expiration of this Agreement on December 31, 2023.

13.7 Entitlement to Large Industrial Rate. If this Agreement terminates pursuant to a closure of the Hawesville Smelter as set forth in Section 7.3.1 and Century continues non-smelting operations, Century will be entitled to be served by Kenergy under the Large Industrial Rate; *provided, however*, the capacity and associated Energy served under the Large Industrial Rate shall not exceed 15 MW.

ARTICLE 14

EVENTS OF DEFAULT; REMEDIES

14.1 Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

14.1.1 Failure by a Party to make any payment in accordance with this Agreement within three Business Days following the non-performing Party's receipt of written notice of the non-performing Party's default in its payment obligation;

14.1.2 Failure of a Party to perform any material duty imposed on it by this Agreement (other than a failure to make a payment when due) within 30 days following the non-performing Party's receipt of written notice of the non-performing Party's breach of its duty hereunder;

14.1.3 Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Article 16;

14.1.4 The occurrence and continuance of an “Event of Default” under the Century Wholesale Agreement;

14.1.5 Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;

14.1.6 Assignment by a Party for the benefit of its creditors;

14.1.7 Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment; or

14.1.8 Failure, inability or refusal of Kenergy to cure a breach or default by Kenergy under the Century Wholesale Agreement which gives rise to a termination of the Century Wholesale Agreement, or any termination by Kenergy of the Century Wholesale Agreement in breach or default thereof.

14.2 Remedies, General. Except as otherwise provided in this Agreement, following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Unless otherwise provided herein, remedies provided in this Agreement are cumulative, unless specifically designated to be an exclusive remedy and nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein provided that:

14.2.1 UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGER, EMPLOYEES OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS EMPLOYEES OR AGENTS WHETHER IN TORT, CONTRACT OR OTHERWISE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY’S LIABILITY HEREUNDER WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

14.2.2 Neither Party may terminate this Agreement as a result of an “Event of Default” under the Century Wholesale Agreement if the actions or omissions of Kenergy caused such “Event of Default”; *provided*, that either Party may terminate this Agreement if the Century Wholesale Agreement is terminated for any reason.

14.2.3 Unless otherwise provided herein, if a Party is in breach of its obligations under this Agreement but such breach does not constitute, or would not with the passage of time or the giving of notice constitute, an Event of Default and this Agreement does not provide any other remedy ~~therefor~~therefor, if such breach has not been cured by the breaching Party within 60 days after receiving written notice from the non-breaching Party setting forth, in reasonable detail, the nature of such breach, the non-breaching Party may bring a claim for money damages with respect to such breach and exercise its rights under Section 15.2, but will not be entitled to terminate, or seek to terminate, this Agreement, or suspend performance of its obligations and duties hereunder as a result of such breach.

ARTICLE 15

DISPUTE RESOLUTION

15.1 Resolution Meetings. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting among an authorized representative of each of the Parties and Big Rivers to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section 15.1 shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement.

15.2 Right to Pursue Rights and Remedies. Absent resolution of a dispute pursuant to Section 15.1, the Parties may pursue at any Governmental Authority all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement. Notwithstanding the provisions of this Article 15, each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

ARTICLE 16

GENERAL PROVISIONS/SUCCESSORS AND ASSIGNS

16.1 Binding Nature. This Agreement will inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. No interest in this Agreement may be transferred or assigned by either Party, in whole or in part, by instrument or operation of law, without the prior written consent of the other Party, except as provided in Section 16.4, and except that, subject to satisfaction of the conditions of Section 16.2, assignment may be made by either Party to such Person as acquires all or substantially all the assets of the assigning Party or which merges with or acquires all or substantially all of the equity of such Party. When consent is required, consent may not be unreasonably withheld, conditioned or delayed.

16.2 Limitation on Assignment. In no event may either Party assign this Agreement (including as part of a sale of all or substantially all the assets of the assigning Party or a merger with or purchase of substantially all the equity interests of such Party) (i) to any Person that does not have adequate financial capacity as demonstrated to the reasonable satisfaction of the

non-assigning Party or that would otherwise be unable to perform the obligations of the assigning Party pursuant to this Agreement or (ii) on any terms at variance from those set forth in this Agreement except as agreed to in writing by the Parties.

16.3 Duties. No permitted assignment or transfer will change the duties of the Parties, or impair the performance under this Agreement except to the extent set forth in such permitted assignment and approved in writing by the Parties. No Party is released from its obligations under this Agreement pursuant to any assignment, unless such release is granted in writing.

16.4 Financing Lien. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

16.5 Big Rivers Restructuring.

16.5.1 In connection with a Restructuring, Kenergy, Century, Alcan and Big Rivers shall determine a good faith estimate of the cumulative increase or decrease in the TIER Adjustment that such Restructuring would cause in each Fiscal Year over the 24-Billing Month period following the date of the effectiveness of Restructuring (the "Restructuring Amount"). Any change in the Large Industrial Rate approved at the time of or in connection with the Restructuring shall not be considered as an effect of the Restructuring. Except for the restrictions set forth in Section 13.1, nothing in this Agreement, including this Section 16.5, shall limit the ability of Big Rivers to seek a change in or modification of the Large Industrial Rate in connection with the occurrence of a Restructuring.

16.5.2 The Monthly Charge in each month of the 48-month period following the effectiveness of the Restructuring shall be increased or decreased, as applicable, by an amount equal to 1/48th of the product of the Restructuring Amount and the Applicable Percentage; *provided*, that the application of this Section 16.5 shall not result in Century paying less than the sum of (a) ~~the sum of the~~ Large Industrial Rate, the FAC Factor ~~and~~, the Non-FAC Purchased Power Adjustment Factor, ~~and (b) the product of clause (a) and the Environmental Surcharge Factor,~~ all on a per MWh basis, for a customer with a 98% load factor with respect to Base Monthly Energy in any Fiscal Year. Sample calculations for determining a Restructuring Amount are set forth in Exhibit A.

16.5.3 This Section 16.5 shall not be applicable to any Restructuring undertaken in response to the loss of revenue caused by the termination of the Alcan Retail Agreement.

16.5.4 If Century, Alcan, Kenergy and Big Rivers are not able to determine a mutually agreeable estimate of the Restructuring Amount, then Kenergy, Century, Alcan or Big Rivers may petition to the KPSC to determine the Restructuring Amount.

ARTICLE 17

MISCELLANEOUS

17.1 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

17.2 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue will lie for the resolution of any-related disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC any matter properly within FERC's jurisdiction.

17.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

17.4 Amendments.

17.4.1 This Agreement may be amended, revised or modified by, and only by, a written instrument duly executed by both Parties.

17.4.2 The Parties acknowledge and agree that nothing in this Agreement shall limit the right of Big Rivers to file changes to the OATT, or limit the right of any Party to challenge any aspect of the OATT, including the applicable loss factor, the transmission service rates or any other transmission or ancillary service issue presented to FERC.

17.5 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to fulfill its obligations under this Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned, or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably exercised. Where notice to the other Party is required to be given herein, and no notice period is specified, reasonable notice shall be given.

17.6 Notices. A notice, consent, approval or other communication under this Agreement must be in writing, addressed to the Person to whom it is to be delivered at such Person's address shown below and (a) personally delivered (including delivery by a nationally recognized overnight courier service), or (b) transmitted by facsimile, with a duplicate notice

sent by a nationally recognized overnight courier service, *provided however*, that (i) a notice given pursuant to Schedule 2.3.2(a) or Section 10.2 may be given by telephone to be followed as soon as reasonably practicable by written notice as described herein and (ii) a notice of Uncontrollable Force shall be given by whatever means is available followed by notice in writing as described herein as soon as reasonably practicable. A notice given to a Person in accordance with this Section 17.6 will be deemed to have been delivered (a) if personally delivered to a Person's address, on the day of delivery if such day is a Business Day, or otherwise on the next Business Day, or (b) if transmitted by facsimile to a Person's facsimile number and a correct and complete transmission report is received, or receipt is confirmed by telephone, on the day of transmission if a Business Day, otherwise on the next Business Day; *provided, however*, that such facsimile transmission will be followed on the same day with the sending to such Person of a duplicate notice by a nationally recognized overnight courier to that Person's address. For the purpose of this Section 17.6, the address of a Party is the address set out below or such other address which that Party may from time to time deliver by notice to the other Party, in accordance with this Section 17.6, with copies of all such notices to Big Rivers to the address set forth below, in the same manner as notice is otherwise given hereunder:

If to Kenergy: Kenergy Corp.
6402 Old Corydon Road
Henderson, Kentucky 42420
Facsimile: _____
Attn: President and CEO

With a copy to: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Facsimile: _____(270) 827-2558
Attn: President and CEO

If to Century: Century Aluminum Company
P.O. Box 500
State Route 271 North
Hawesville, Kentucky 42348
Attn: Plant Manager
Facsimile: (270) 852-2882

With a copy to: Century Aluminum Company
2511 Garden Road
Building A, Suite 200
Monterey, CA 93940
Attn: General Counsel
Facsimile: (831) 642-9328

If to Big Rivers: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Facsimile: _____(270) 827-2558
Attn: President and CEO

For notices pursuant to Section 14.1:

If to Kenergy: Kenergy Corp.
6402 Old Corydon Road
Henderson, Kentucky 42420
Facsimile: _____
Attn: President and CEO

With a copy to: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Facsimile: _____(270) 827-2558
Attn: President and CEO

If to Century: Century Aluminum Company
P.O. Box 500
State Route 271 North
Hawesville, Kentucky 42348
Attn: Plant Manager
Facsimile: (270) 852-2882

17.7 Severability. If any clause, sentence, paragraph or part of this Agreement should for any reason be finally adjudged by any court of competent jurisdiction to be unenforceable or invalid, such judgment will not affect, impair or invalidate the remainder of this Agreement but will be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which the judgment is rendered, unless the loss or failure of such clause, sentence, paragraph or part of this Agreement materially adversely affects the benefit of the bargain to be received by either or both of the Parties, in which event the Parties shall promptly meet and use their good faith best efforts to renegotiate this Agreement in such a fashion as will restore the relative rights and benefits of both Parties or, absent such renegotiation, the Party that was so materially adversely affected will be entitled, in its discretion, to terminate this Agreement.

17.8 Survival. Each provision of this Agreement providing for payment for Electric Services and any other amounts due hereunder, distribution of patronage capital, assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, indemnification or payment of other liabilities will survive termination of this Agreement to the full extent necessary for their enforcement and the protection of the Party in whose favor they run.

17.9 Merger. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the matters addressed herein and supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement except as otherwise expressly provided in Section 6.1 and Section 7.2.6 hereof.

17.10 Further Assurances. The Parties shall execute such additional documents including a consent to assignment, legal opinions, estoppel letters or similar documents, and shall cause such additional actions to be taken as may be required or, in the judgment of any Party, be necessary or desirable, to effect or evidence the provisions of this Agreement and the transactions contemplated hereby.

17.11 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument and each counterpart will have the same force and effect as if they were one original.

17.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard or care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement other than Big Rivers.

17.13 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

17.14 No Agency. This Agreement is not intended, and may not be construed to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party will have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or otherwise bind, the other Party.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

KENERGY CORP.

By: _____
Name:
Title:

CENTURY ALUMINUM OF KENTUCKY
GENERAL PARTNERSHIP

By: _____
Name:
Title:

SCHEDULE 2.3.2(a)

INTERRUPTIBLE ENERGY

(a) Interruptible Energy. Kenergy may purchase from Big Rivers on a System Firm basis up to 10 MW per Hour of Interruptible Energy for resale to Century, subject to availability, the scheduling requirements and Big Rivers' right to interrupt the sale and delivery of such Energy, all as set forth in this Section (a).

(i) Confirmation. Not less than seven days prior to the beginning of each fiscal quarter of the Service Period (or the Effective Date with respect to the initial fiscal quarter of the Service Period), Big Rivers shall provide to Kenergy and Century a confirmation setting forth the price or prices and other terms and conditions ("Interruptible Energy Terms") under which Interruptible Energy may be available during each Hour of the subject fiscal quarter. If Big Rivers fails to provide a timely confirmation with respect to any fiscal quarter, the Interruptible Energy Terms for the prior fiscal quarter shall remain in effect. Big Rivers and Kenergy shall obtain Century's consent to each confirmation as a condition to Big Rivers' obligation to make Interruptible Energy available to Kenergy for scheduling during each fiscal quarter.

(ii) Scheduling of Interruptible Energy. The provision of Interruptible Energy shall be subject to the following requirements:

(A) At the request of Century, Kenergy shall submit to Big Rivers, no later than 3:00 PM on the second Business Day prior to the day of the scheduled delivery (or such shorter period agreed to by Big Rivers), a schedule for up to 10 MW of Interruptible Energy, in integral multiples of one MW per Hour, for the times and durations specified in the schedule.

(B) Big Rivers shall be under no obligation to accept the schedule submitted by Kenergy or to deliver the Interruptible Energy so scheduled, but shall, upon receipt of such schedule, notify Kenergy and Century by 9:00 AM of the Business Day prior to the day of scheduled delivery of the number of MW, if any, Big Rivers is willing to deliver and the hour and duration when the delivery shall take place (the "Response").

(C) Subject to Big Rivers' rights to interrupt in accordance with Section (a)(iii) below, Big Rivers shall sell and deliver the volume of Interruptible Energy at the time and for the duration specified in the Response (the "Scheduled Interruptible Energy").

(iii) Interruption of Scheduled Interruptible Energy. The sale and delivery of Scheduled Interruptible Energy may be interrupted by Big Rivers at any time (a "Permitted Interruption") upon the following terms and conditions:

(A) Upon a determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy will not be available on a System Firm basis, Big Rivers may implement a Permitted Interruption of all or any portion of the Scheduled Interruptible Energy by providing a notice of interruption ("Notice of Interruption") to Kenergy and Century at least 30 minutes in advance of the estimated interruption;

(B) A Notice of Interruption may be made orally but shall be followed by facsimile or other electronic means acceptable to Kenergy and Century; and

(C) Upon an after-the-fact determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy was not available on a System Firm basis during a prior hour or hours, and notwithstanding that no Notice of Interruption had been issued, Big Rivers may implement retroactively a Permitted Interruption of Scheduled Interruptible Energy for such prior hour or hours, to the extent that such Scheduled Interruptible Energy was not available on a System Firm Basis.

Upon meeting the conditions required for a Permitted Interruption, Big Rivers shall have no obligation to sell and deliver the amount of Scheduled Interruptible Energy designated to be interrupted in the applicable Notice of Interruption. In connection with a Permitted Interruption, Big Rivers may provide, but shall not be required to provide, an opportunity for Kenergy to acquire Firm Energy, in lieu of the Scheduled Interruptible Energy, for resale to Century pursuant to the terms and conditions of Section 2.3.2(b). In the case of a Permitted Interruption that is implemented retroactively, the Energy delivered by Big Rivers shall be deemed to have been delivered as Backup Energy pursuant and subject to Sections 2.3.3 and 4.4.1. Big Rivers shall not be limited in the number of times that it may issue a Notice of Interruption or may implement a Permitted Interruption, or of the amount or duration of any Permitted Interruption.

(iv) Allocation of Permitted Interruptions. If Kenergy has arranged for Scheduled Interruptible Energy during any Hour to Kenergy under this Agreement for resale to Century and to Kenergy under the Alcan Wholesale Agreement for resale to Alcan and Big Rivers determines that it will be unable or was unable during any prior Hour or Hours, to supply the full amount of Scheduled Interruptible Energy to Kenergy for both Century and Alcan, then:

(A) Big Rivers may provide a Notice of Interruption and implement a Permitted Interruption to Kenergy with respect to the Scheduled Interruptible Energy for Century or with respect to "Scheduled Interruptible Energy" as defined in the Alcan Retail Agreement, or any combination thereof; and

(B) Big Rivers may retroactively implement Permitted Interruptions for any Hour to Kenergy for Century and Alcan in equal amounts, taking into consideration any Permitted Interruption to Kenergy that had previously been implemented for the same Hour under part (A) above.

(v) Termination of Interruptions. During any period of Interruption, Big Rivers may notify Kenergy and Century of its willingness to terminate the Interruption and resume the delivery of Scheduled Interruptible Energy at the Interruptible Energy Terms. Upon notification from Big Rivers terminating the Interruption, Kenergy shall purchase from Big Rivers and resell and deliver Scheduled Interruptible Energy to Century at the beginning of the next Hour that starts at least 10 minutes following such notice.

SCHEDULE 4.11(c)
REFERENCE ANNUAL FUEL COSTS PER MWH

<u>Year</u>	<u>Fuel Cost per MWH Sales*</u>
2008	15.68
2009	16.44
2010	16.74
2011	17.23
2012	17.65
2013	18.25
2014	17.82
2015	18.37
2016	18.38
2017	18.74
2018	18.43
2019	19.18
2020	19.04
2021	19.90
2022	19.23
2023	19.74

* Includes cost of Startups

SCHEDULE 4.13.5

MODEL FAC FACTOR AMOUNTS

<u>Year</u>	<u>FAC Factor per MWH Sales</u>
2009	5.84
2010	7.05
2011	7.60
2012	7.81
2013	8.31
2014	8.99
2015	9.01
2016	9.41
2017	9.45
2018	9.75
2019	9.64
2020	10.11
2021	10.30
2022	10.39
2023	10.44

SCHEDULE 6.2.2

**LISTING OF OBLIGATIONS TERMINATED PURSUANT TO THE UNWIND
TRANSACTIONS**

RETAIL OBLIGATIONS AND AMENDMENTS

1. Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
2. Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation and Southwire Company
3. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
4. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
5. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Alcan Aluminum Corporation
6. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Southwire Company

WHOLESALE OBLIGATIONS AND AMENDMENTS

7. Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and LG&E Energy Marketing Inc.
8. Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and LG&E Energy Marketing Inc.
9. Amendment to Wholesale Power Agreements Dated October 12, 1974 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
10. Amendment to Wholesale Power Agreements Dated February 16, 1988 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
11. Agreement of Big Rivers Electric Corporation with Respect to Future Policies and Procedures Regarding Big Rivers' Transmission System (sometimes referred to as the "Wholesale ISO Agreement"), dated as of July 15, 1998, between Big Rivers Electric Corporation, Green River Electric Corporation, Henderson Union Electric Cooperative Corp., Jackson Purchase Electric Cooperative Corporation, and Meade County Rural Electric Cooperative

CERTAIN REORGANIZATION DOCUMENTS

12. Letter Regarding Schedule 5.4(a)(1) Provisions Regarding Restitution Amounts, dated July 2, 1998, from Geo. F. Hobday, Jr. on behalf of Big Rivers, sent to Frank N. King, W. David Denton, David C. Brown, Michael Kurtz, Allison Wade, and Charles Ritz
13. Letter Regarding Restitution Payments, dated July 13, 1998, from Michael Kurtz sent to James M. Miller and Geoff Hobday
14. Letter Regarding Restitution Payments, dated July 14, 1998, from Michael Core, on behalf of Big Rivers, sent to Allan Eyre and John Henderson
15. Letter Regarding Restitution Payments, dated July 15, 1998, from Allan B. Eyre, on behalf of Alcan, and John Henderson, on behalf of NSA and Southwire, sent to Michael Core

SECURITY AND LOCKBOX AGREEMENTS

16. Security and Lockbox Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LG&E Energy Marketing Inc., Kenergy (as successor to Henderson Union), Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)

17. Security and Lockbox Agreement, dated as of July 15, 1998, by and among LG&E Marketing Inc., Green River Electric Corporation, and Southwire Company

LOAD MANAGEMENT AGREEMENTS

18. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
19. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Southwire Company, Century Aluminum Company (as successor to Southwire Company), Century Aluminum of Kentucky LLC (as successor to Century Aluminum Company), Hancock Aluminum LLC (as successor to Century Aluminum of Kentucky LLC), and Century Aluminum of Kentucky General Partnership (as successor to Hancock Aluminum LLC and NSA, Ltd.)

ASSURANCES AND GUARANTIES

20. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Alcan Aluminum Corporation, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Alcan Aluminum Corporation
21. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Southwire Company, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Southwire Company
22. Assurances Agreement, dated as of November 30, 2006, between Century Aluminum General Partnership and Big Rivers Electric Corporation
23. First Amendment to Assurances Agreement Dated as of November, 30, 2006, dated as of November __, 2007, by and between Century Aluminum of Kentucky General Partnership and Big Rivers Electric Corporation
24. Guaranty, dated August 1, 2003, from Alcan Corporation to and in favor of the E.ON Parties
25. Guaranty, dated July 15, 1998, of E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Henderson Union)
26. Guaranty, dated July 15, 1998, by E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Green River Electric Corporation)

INDEMNIFICATION AGREEMENTS

27. Indemnification and Assignment Agreement, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
28. Indemnification and Assignment Agreement, dated July 15, 1998, between Green River Electric Corporation and Southwire Company

TIER 3 CONTRACTS AND RELATED DOCUMENTS

29. Agreement for Tier 3 Electric Service (2001-2002), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
30. Agreement for Tier 3 Electric Service (2001-2005), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
31. Agreement for Interruptible Tier 3 Energy, dated as of July 25, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
32. Agreement for Interruptible Tier 3 Energy, dated as of November 5, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
33. Agreement for Interruptible Tier 3 Energy, dated as of September 15, 2003, between Kenergy Corp. and Big Rivers Electric Corporation
34. Agreement for Interruptible Tier 3 Energy, dated as of November 30, 2006, between Kenergy Corp. and Big Rivers Electric Corporation
35. Agreement for Tier 3 Energy (Century), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
36. Agreement for Tier 3 Energy (Alcan), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
37. Consent to the Agreement for Tier 3 Energy (Alcan), dated November ~~___~~29, 2007, by Alcan Primary Products Corporation
38. Consent to the Agreement for Tier 3 Energy (Century), dated November ~~___~~29, 2007, by Century Aluminum of Kentucky General Partnership
39. All other agreements related to the provision of Tier 3 service by or among Big Rivers, Kenergy, the Smelters or any LG&E parties

OTHER AGREEMENTS

40. Assumption and Consent Agreement, dated as of August 1, 2003, among Alcan Primary Products Corporation, WKE Station Two Inc., LG&E Energy Marketing Inc., Western Kentucky Energy Corp. and Kenergy

41. Undertaking of Alcan Corporation, dated August 1, 2003, from Alcan to and in favor of LG&E Energy Marketing Inc., and the Undertaking of Alcan Aluminum Corporation, dated July 15, 1998, in favor of Henderson Union Electric Cooperative Corporation and LG&E Energy Marketing Inc.
42. Special Assignment Agreement, dated as of March 26, 2001, among LG&E Marketing Inc., Southwire Company, Century Aluminum of Kentucky LLC and Century Aluminum Company
43. Consent and Agreement, dated December 23, 2005, among Century Aluminum of Kentucky LLC, Century Aluminum Company, Hancock Aluminum LLC, NSA, Ltd., Century Aluminum of Kentucky General Partnership, Metalsco, Ltd., Skyliner, Inc., Century Kentucky, Inc. and LG&E Energy Marketing Inc.
44. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
45. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
- 46. Joint Use Agreement, dated as of February 8, 2000, between Western Kentucky Energy Corp. and Big Rivers Electric Corporation**

SCHEDULE 6.2.3
LISTING OF CERTAIN DULY AUTHORIZED AND EXECUTED AGREEMENTS

RETAIL AGREEMENTS

1. Retail Electric Service Agreement by and between Kenergy Corp. and Alcan Primary Products Corporation
2. Retail Electric Service Agreement by and between Kenergy Corp. and Century Aluminum General Partnership

WHOLESALE AGREEMENTS

3. Wholesale Electric Service Agreement (Alcan) by and between Big Rivers Electric Corporation and Kenergy Corp.
4. Wholesale Electric Service Agreement (Century) by and between Big Rivers Electric Corporation and Kenergy Corp.

COORDINATION AGREEMENTS

5. Coordination Agreement by and between Big Rivers Electric Corporation and Alcan Primary Products Corporation
6. Coordination Agreement by and between Big Rivers Electric Corporation and Century Aluminum of Kentucky General Partnership

LOCKBOX AGREEMENTS

7. Security and Lockbox Agreement (Alcan) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Alcan Primary Products Corporation
8. Security and Lockbox Agreement (Century) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Century Aluminum of Kentucky General Partnership

GUARANTEES

9. Parent Guarantee by Alcan Corporation in favor of Kenergy Corp., and Big Rivers Electric Corporation
10. Parent Guarantee by Century Aluminum Company in favor of Kenergy Corp., and Big Rivers Electric Corporation

APPENDIX A
Non-FAC Purchased Power Adjustment Factor

- A. Base Monthly Energy Sales to the smelters are subject to a Non-FAC Purchased Power Adjustment (PPA) to recover purchased power costs that the smelters have agreed to pay and are not otherwise included in Big Rivers' Fuel Adjustment Clause (FAC).
- B. Definitions

Definitions have the meanings given to them in the Agreement except as provided below:

“Account” is the specified numbered account as set forth in the Uniform System of Accounts – Electric, promulgated under Bulletin 1767B-1 by the Rural Utilities Service, an agency of the U.S. Department of Agriculture.

“SEPA” is the Southeastern Power Administration, an agency of the U.S. Department of Energy, or any successor agency.

“Wholesale Smelter Agreements” are the Alcan Wholesale Agreement and the Century Wholesale Agreement.

- C. Determination of the PPA

- (1) The monthly amount computed for all wholesale sales to which this PPA is applicable shall be increased or decreased at a rate per kWh in accordance with the following formula:

$$PPA = PP(m)/S(m) - PP(b)/S(b)$$

Where PPA is the PPA Factor for the month; PP(m) is the current Purchased Power Cost for the month; S(m) is the current applicable sales; PP(b) is the Purchased Power Cost for the base period; and S(b) is the sales in the base period. For the initial base period, PP(b)/S(b) (the “Purchased Power Base”) is \$0.00175.

- (2) Purchased Power Costs (PP) shall be the sum of:
 - (a) The total cost of power purchased (including purchases from SEPA) that is expensed by Big Rivers to Account 555 (excluding those costs that are recovered through Big Rivers' FAC and excluding costs expensed to Account Nos. 555.150, 555.151, and 555.152 regarding Big Rivers' cost share of HMP&L's Station Two) including transmission and related costs that are expensed to Account 565;
 - (b) The total amount of any adjustments to Purchased Power Costs attributable to prior months, whether positive or negative; and

- (c) The total cost of amounts credited by Big Rivers to Kenergy with respect to voluntary curtailments under Section 4.13.2 of either Smelter Wholesale Agreement to allow Big Rivers to avoid market priced purchases of power.

Less:

- (d) The total cost of power purchased directly associated with sales (including related system energy losses) by Big Rivers either to non-Member purchasers of power or to Kenergy under either Wholesale Smelter Agreement for resale to either Smelter as energy products other than Base Monthly Energy, assuming SEPA power followed by the lowest cost power, whether generated or purchased, shall be allocated to Applicable Sales.
- (3) Applicable Sales (S) shall be all kilowatt-hours sold at wholesale by Big Rivers (a) to its Members under all electric rate schedules, including the Large Industrial Rate, for resale to Kentucky ratepayers (other than the Smelters), and (b) to Kenergy as Base Monthly Energy as defined in each of the Wholesale Smelter Agreements.
 - (4) The current month (m) shall be the second month preceding the month in which the PPA Factor is billed.

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Legend:	
Insertion	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Deletions	173
Moved from	5
Moved to	5
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Format changed	0
Total changes	273

**COMPARISON OF ALCAN WHOLESALE
AGREEMENT**

**WHOLESALE ELECTRIC SERVICE AGREEMENT
(ALCAN)**

Dated as of [_____],

by and between

BIG RIVERS ELECTRIC CORPORATION

and

KENERGY CORP.

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WHOLESALE ELECTRIC SERVICE AGREEMENT (ALCAN)

This WHOLESALE ELECTRIC SERVICE AGREEMENT (ALCAN) (this “Agreement”) is dated as of [_____], and made by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative corporation (“Big Rivers”), and KENERGY CORP., a Kentucky rural electric cooperative corporation (“Kenergy”).

RECITALS

A. Big Rivers is a generation and transmission cooperative and Kenergy is a member of Big Rivers.

B. Kenergy currently supplies and delivers to Alcan, the owner and operator of an aluminum reduction plant in Sebree, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp., Kenergy’s predecessor-in-interest, and Alcan Aluminum Corporation, Alcan’s predecessor-in-interest (the “Existing Alcan Agreement”).

C. Kenergy currently purchases electric energy and related services for resale to Alcan from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with its affiliates and parent, collectively, “LG&E”), under an Agreement for Electric Service, dated as of July 15, 1998, with Kenergy (the “Kenergy/LG&E Contract”).

D. Kenergy also currently purchases additional electric energy and related services for resale to Alcan, to serve the energy requirements of Alcan not provided by LG&E, from third-party energy suppliers, including Big Rivers.

E. The Existing Alcan Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E, and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

F. Big Rivers, Kenergy, LG&E, Century Aluminum of Kentucky General Partnership (“Century”), and Alcan have agreed to enter into a series of transactions referred to herein as the New Transaction and the Unwind Transaction, as defined below.

G. In connection with and as a condition to the Unwind Transaction, Big Rivers has agreed to supply, and Kenergy has agreed to purchase, a certain amount of wholesale electric service for resale to Alcan on the terms and conditions set forth herein, and Kenergy and Alcan have agreed to enter into a retail electric service agreement, dated as of the date hereof, with obligations corresponding to those set forth in this Agreement (the “Alcan Retail Agreement”).

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the Parties, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions. Capitalized terms when used in this Agreement have the meanings specified herein, including the definitions provided in Article 1, unless stated otherwise or the context requires otherwise.

1.1.1 Accounting Principles: Generally accepted accounting principles consistently applied or, if generally accepted accounting principles in accordance with the uniform system of accounts of an applicable Governmental Authority or RUS are required, the generally accepted accounting principles consistently applied in accordance with such uniform system of accounts, each as in effect from time to time.

1.1.2 Affiliate: With respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified Person. For avoidance of doubt, no Member is an Affiliate of Big Rivers.

1.1.3 Agreement: As defined in the Preamble.

1.1.4 Alcan: As defined in the Recitals.

~~1.1.5 Alcan FAC Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$3,030,588.24, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom and subject to decreases for any tax liability to Big Rivers relating thereto. No additional principal amounts may be contributed to the Alcan FAC Reserve after the Effective Date.~~

1.1.5 ~~1.1.6~~ Alcan Guarantee: As defined in the Alcan Retail Agreement.

1.1.6 ~~1.1.7~~ Alcan Parent: Alcan Corporation, a Texas corporation, and parent corporation to Alcan.

1.1.7 ~~1.1.8~~ Alcan Retail Agreement: As defined in the Recitals.

1.1.8 ~~1.1.9~~ Ancillary Services: Those services that are necessary to support the transmission of Energy from resources to loads while maintaining reliable operations of Big Rivers' transmission system, as set forth and described in the OATT.

1.1.9 ~~1.1.10~~ Applicable Law: All laws, statutes, codes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations, interpretations, issuances, enactments, decisions, authorizations, permits or directives of any Governmental Authority having jurisdiction over the matter in question.

1.1.10 ~~1.1.11~~ Applicable Percentage: The percentage determined in each Fiscal Year that is the quotient of the Base Demand divided by the sum of the Base Demand and the “Base Demand” as defined in and as then in effect under the Century Retail Agreement. If the Century Retail Agreement is terminated or no longer in effect for any reason, Century’s “Base Demand” shall be deemed to be 482 MW for purposes of calculating the Applicable Percentage.

1.1.11 ~~1.1.12~~ Avoidable Base Charge: The amount in any Billing Month equal to the sum of:

(a) the product of (i) the sum of the Base Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Fixed Energy that was made available by Alcan to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales;

(b) *plus* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Variable Energy that was made available by Alcan to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales; and

(c) *less* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) any Base Fixed Energy or Base Variable Energy made available by Alcan to Big Rivers for Surplus Sales that was neither metered at the Point of Delivery nor sold by Big Rivers as Surplus Sales.

Sample calculations of the Avoidable Base Charge are set forth in Exhibit A.

1.1.12 ~~1.1.13~~ Back-Up Energy: For any Hour in a Billing Month, the amount of Energy metered at the Point of Delivery during such Hour, less the sum of (i) the Base Demand per Hour less Base Curtailed Energy in such Hour, and (ii) any Supplemental Energy metered at the Point of Delivery during such Hour; *provided*, that the amount of Back-Up Energy may not be less than zero.

1.1.13 ~~1.1.14~~ Back-Up Energy Charge: As defined in Section 4.4.

1.1.14 ~~1.1.15~~ Base Curtailed Energy: For any Hour in a Billing Month, the amount of Energy that is either (a) curtailed by Alcan pursuant to Section 4.13.2, or (b) sold by Big Rivers to one or more Third Parties pursuant to (i) Section 4.13.3 as Economic Sales, (ii) Section 10.1 as Surplus Sales, (iii) Section 10.2 as Undeliverable Energy Sales, or (iv) Section 10.3 as Potline Reduction Sales.

~~1.1.15~~ ~~1.1.16~~ Base Demand: 368 MW, or such other amount of electric demand agreed in accordance with Section 3.1, integrated over an hour ~~Hour~~.

~~1.1.16~~ ~~1.1.17~~ Base Energy Charge: As defined in Section 4.2.

~~1.1.17~~ ~~1.1.18~~ Base Fixed Energy: For any Billing Month, the product of (a) the Base Demand, (b) the number of Hours in the Billing Month, and (c) 0.98.

~~1.1.18~~ ~~1.1.19~~ Base Hourly Energy: For any Hour in a Billing Month, the amount of Energy equal to the sum of (a) the Energy metered at the Point of Delivery during such Hour *less* (i) Supplemental Energy and (ii) “Market Energy” as defined under the Alcan Retail Agreement that was purchased by Kenergy from Third Party Suppliers for resale to Alcan, each as metered at the Point of Delivery, if any, and (b) Base Curtailed Energy; *provided*, that for purposes of calculating Base Hourly Energy, the sum of clauses (a) and (b) above during any Hour shall not exceed the Base Demand per Hour.

~~1.1.19~~ ~~1.1.20~~ Base Monthly Energy: The sum of the Base Hourly Energy for all Hours of a Billing Month.

~~1.1.20~~ ~~1.1.21~~ Base Rate: The rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with a 98% load factor, plus \$0.25 per MWh.

~~1.1.21~~ ~~1.1.22~~ Base Variable Energy: For any Billing Month, Base Monthly Energy less Base Fixed Energy, whether positive or negative.

~~1.1.22~~ ~~1.1.23~~ Base Variable Rate: The ~~Base Variable Rate~~ rate shall be expressed ~~on an~~ in dollars per MWh ~~basis and,~~ equal to the sum of (i) the “FAC Base” with respect to Big Rivers’ Tariff, (ii) the “Environmental Surcharge Base” with respect to Big Rivers’ Tariff, and (iii) the “Purchased Power Base” as defined in Appendix A.

~~1.1.23~~ ~~1.1.24~~ Big Rivers: As defined in the Preamble.

~~1.1.24~~ ~~1.1.25~~ Big Rivers’ Tariff: Big Rivers’ Rates, Rules and Administrative Regulations For Furnishing Electric Service, as filed with and approved by the KPSC.

~~1.1.25~~ ~~1.1.26~~ Billing Month: Each calendar month during the Service Period.

~~1.1.26~~ ~~1.1.27~~ Budget: The annual operating and capital budget approved by Big Rivers’ Board of Directors that estimates all revenues and expenditures of Big Rivers for a specified Fiscal Year, as amended and in effect from time to time.

~~1.1.27~~ ~~1.1.28~~ Business Day: Mondays through Fridays of each week except legal holidays established by federal law in the United States of America or state law in the Commonwealth of Kentucky.

1.1.28 ~~1.1.29~~ Buy-Through Energy: As defined in Section 2.3.2(b).

1.1.29 ~~1.1.30~~ Buy-Through Energy Charge: As defined in Section 4.3.2.

1.1.30 ~~1.1.31~~ Century: As defined in the Recitals.

1.1.31 ~~1.1.32~~ Century Retail Agreement: The retail electric service agreement, dated as of the date hereof, by and between Kenergy and Century.

1.1.32 ~~1.1.33~~ Century Wholesale Agreement: The wholesale electric service agreement, dated as of the date hereof, between Big Rivers and Kenergy for the benefit of Century.

1.1.33 ~~1.1.34~~ Cut-Off Date: As defined in Section 10.3.6.

1.1.34 ~~1.1.35~~ Economic Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to the sum of (a) \$157 million, and (b) such additional amount as Big Rivers may designate on or prior to the consummation of the Unwind Transaction, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. The amount designated by Big Rivers pursuant to clause (b) above may not exceed (i) an amount equal to Big Rivers' unrestricted cash on hand following the consummation of the Unwind Transaction *less* \$125 million, and (ii) zero if Big Rivers shall not have prepaid at least \$200 million of obligations owed to RUS debt as part of the Unwind Transaction. No additional principal amounts will be contributed by Big Rivers to the Economic Reserve after the Effective Date, ~~except as provided under Section 4.13.5(b) and Section 4.13.5(b) of the Century Wholesale Agreement, respectively.~~

1.1.35 ~~1.1.36~~ Economic Sales: As defined in Section 4.13.3.

1.1.36 ~~1.1.37~~ Effective Date: As defined in Section 6.1.

1.1.37 ~~1.1.38~~ Electric Services: Electric services including capacity and associated Energy and Transmission Services provided by Big Rivers to Kenergy pursuant to this Agreement for resale to Alcan.

1.1.38 ~~1.1.39~~ Energy: The flow of electricity denominated in kWh or MWh.

1.1.39 ~~1.1.40~~ Environmental Surcharge: As defined in Section 4.8.3.

1.1.40 ~~1.1.41~~ Environmental Surcharge Factor: With respect to any Billing Month, a monthly environmental surcharge factor, expressed in dollars per MWh, that is calculated in accordance with the "Monthly Environmental Surcharge Factor" as defined in Big Rivers' Tariff-Environmental Surcharge Rider.

1.1.41 ~~1.1.42~~ Environmental Surcharge Rider: The Environmental Surcharge Rider to Big Rivers' Tariff.

1.1.42 ~~1.1.43~~ Equity Development Credit: As defined in Section 4.10.

- 1.1.43 ~~1.1.44~~ Event of Default: As defined in Section 14.1.
- 1.1.44 ~~1.1.45~~ Excess TIER Amount: The amount of the TIER Adjustment, if negative, with respect to any Fiscal Year.
- 1.1.45 ~~1.1.46~~ Excess Reactive Demand Charge: As defined in Section 4.6.
- 1.1.46 ~~1.1.47~~ Existing Alcan Agreement: As defined in the Recitals.
- 1.1.47 ~~1.1.48~~ FAC: The Fuel Adjustment Clause Rider to Big Rivers' Tariff.
- 1.1.48 ~~1.1.49~~ FAC Charge: As defined in Section 4.8.1.
- 1.1.49 ~~1.1.50~~ FAC Factor: With respect to any Billing Month, the "FAC Factor" (~~fuel adjustment factor, expressed on a kWh basis~~) in dollars per MWh, that is calculated in accordance with the FAC in dollars per kWh.
- 1.1.50 ~~1.1.51~~ FERC: Federal Energy Regulatory Commission.
- 1.1.51 ~~1.1.52~~ Firm: An obligation to supply Energy subject only to the occurrence of an Uncontrollable Force.
- 1.1.52 ~~1.1.53~~ Fiscal Year: The fiscal year of Big Rivers.
- 1.1.53 ~~1.1.54~~ Governmental Authority: Any international, national, federal, state, territorial, local or other government, or any political subdivision thereof, and any governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity having legal jurisdiction over the matter or Person in question, including the KPSC; *provided, however* that the RUS is not a Governmental Authority for purposes of this Agreement.
- 1.1.54 ~~1.1.55~~ Hour or Hourly: A clock hour or per clock hour, respectively.
- 1.1.55 ~~1.1.56~~ Imputed Interest: As defined in Section 4.7.5(e).
- 1.1.56 ~~1.1.57~~ Interruptible Energy: As defined in Section 2.3.2(a).
- 1.1.57 ~~1.1.58~~ Interruptible Energy Charge: As defined in Section 4.3.1.
- 1.1.58 ~~1.1.59~~ Interruptible Energy Terms: As defined in Section 2.3.2(a)(i).
- 1.1.59 ~~1.1.60~~ Kenergy/LG&E Contract: As defined in the Recitals.
- 1.1.60 ~~1.1.61~~ KPSC: Kentucky Public Service Commission.
- 1.1.61 ~~1.1.62~~ kW: Kilowatt.
- 1.1.62 ~~1.1.63~~ kWh: Kilowatt-hour.

1.1.63 ~~1.1.64~~ **Large Industrial Rate**: Big Rivers' Tariff Rate Schedule No. 7 and all applicable rate adjustments thereto but exclusive of (a) the Rebate, (b) the FAC Factor and the Environmental Surcharge Rider, and (c) any roll-in of costs recovered in the ~~regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with for respect to sales to their Non-Smelter Ratepayers~~ **Regulatory Account**. As of the Effective Date, the Large Industrial Rate will consist of separate rate components for demand and Energy consumption. The Large Industrial Rate subsequently may be defined in terms of more than two separate rate components, including, potentially, separate rate components for transmission services. In such event, for purposes of this Agreement the "Large Industrial Rate" shall include all such rate components but excluding in all cases (a) the Rebate and (b) the FAC Factor and the ~~Environmental Surcharge Rider~~. For the avoidance of doubt, the Large Industrial Rate shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.64 ~~1.1.65~~ **LG&E**: As defined in the Recitals.

1.1.65 ~~1.1.66~~ **Lockbox Agreement**: The Security and Lockbox Agreement to be entered into among Alcan, Kenergy, Big Rivers and a depository bank prior to the Effective Date with respect to the payment of certain amounts due **by Kenergy to Big Rivers** hereunder.

1.1.66 ~~1.1.67~~ **Market Energy**: As defined in Section 2.3.2(c).

1.1.67 ~~1.1.68~~ **Market Energy Charge**: As defined in Section 4.3.3.

1.1.68 ~~1.1.69~~ **Market Reference Rate**: For any Hour, a rate equal to the all-inclusive cost, including transmission and related charges on the transmission system of any Third Party (expressed in dollars per MWh), that Big Rivers estimates, in its sole discretion exercised in good faith, that it would have paid to purchase Energy from a Third Party if there had been no curtailment pursuant Section 4.13.2 during such Hour.

1.1.69 ~~1.1.70~~ **Members**: The members of Big Rivers. As of the date hereof, the Members of Big Rivers are Jackson Purchase Energy Corporation, Kenergy, and Meade County Rural Electric Cooperative Corporation.

1.1.70 ~~1.1.71~~ **Model**: As defined in Section 1.2(o).

1.1.71 ~~1.1.72~~ **Monthly Charge**: As defined in Section 4.1.

1.1.72 ~~1.1.73~~ **MW**: Megawatt.

1.1.73 ~~1.1.74~~ **MWh**: Megawatt-hour.

1.1.74 ~~1.1.75~~ **Net Margins**: Net margins as determined by Accounting Principles. For the avoidance of doubt, Net Margins will include all operating and non-operating margins.

1.1.75 ~~1.1.76~~ **Net Proceeds**: The proceeds from the sale of Energy by Big Rivers to Third Parties, net of transaction costs, whenever incurred, and taxes, including Big

Rivers' estimated income tax liability on such proceeds without regard to any net operating loss carry-forward of Big Rivers existing on the date of the consummation of the Unwind Transaction, unless and to the extent Big Rivers reasonably determines that such net operating loss carry-forward otherwise would have expired unused.

1.1.76 ~~1.1.77~~ New Facilities: As defined in Section 4.7.5(e).

1.1.77 ~~1.1.78~~ New Ratepayer: A Non-Smelter Ratepayer which is (i) interconnected directly with Big Rivers' transmission system, and (ii) first receives electric service at a location served by a meter required for service at such location which meter was installed specifically for new service at such location after the Effective Date. For the avoidance of doubt, Southwire Company is not a New Ratepayer.

1.1.78 ~~1.1.79~~ New Transaction: The transactions by and between or among one or more of Kenergy, Alcan, Century and Big Rivers related to the supply of Electric Services to Kenergy under this Agreement and "Electric Services" as defined in the Century Wholesale Agreement and including the Alcan Retail Agreement, the Century Retail Agreement, coordination agreements, lockbox agreements, and all other related agreements.

1.1.79 ~~1.1.80~~ Non-FAC Purchased Power Adjustment Charge: As defined in Section 4.8.2.

1.1.80 ~~1.1.81~~ Non-FAC Purchased Power Adjustment Factor: A rate *(expressed in dollars per MWh and calculated in accordance with Appendix A in dollars per kWh)* for the recovery of purchased power costs that are not otherwise included in the FAC *(expressed in dollars per kWh) that is calculated in accordance with Appendix A.*

1.1.81 ~~1.1.82~~ Non-Smelter Member Rates: Big Rivers' tariff rates applicable to sales of electric services to Members for resale to Non-Smelter Ratepayers and all applicable rate adjustments thereto but exclusive of (i) the Rebate and (ii) the FAC Factor and the Environmental Surcharge Rider. For the avoidance of doubt, the Non-Smelter Member Rates shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.82 ~~1.1.83~~ Non-Smelter Ratepayers: Retail ratepayers of the Members other than Alcan and Century.

1.1.83 ~~1.1.84~~ Notice of Interruption: As defined in Section 2.3.2(a)(iii)(1).

1.1.84 ~~1.1.85~~ OATT: Big Rivers' Open Access Transmission Tariff as filed with FERC and found by FERC to constitute a reciprocal open access transmission tariff.

1.1.85 ~~1.1.86~~ Parties: Big Rivers and Kenergy.

1.1.86 ~~1.1.87~~ Permitted Interruption: As defined in Section 2.3.2(a)(iii).

1.1.87 ~~1.1.88~~ **Person:** Any individual, corporation, cooperative, partnership, joint venture, association, joint-stock company, limited partnership, limited liability company, limited liability partnership, trust, unincorporated organization, RUS or Governmental Authority.

1.1.88 ~~1.1.89~~ **Point of Delivery:** The existing set of meters at Big Rivers' Reid substation or such other point of delivery mutually agreed by the Parties and Alcan.

1.1.89 ~~1.1.90~~ **Potline Reduction:** As defined in Section 10.3.1.

1.1.90 ~~1.1.91~~ **Potline Reduction Sales:** As defined in Section 10.3.1.

1.1.91 ~~1.1.92~~ **Potline Reduction Sales Agreement:** As defined in Section 10.3.3.

1.1.92 ~~1.1.93~~ **Prime Rate:** The then-effective prime commercial lending rate per annum published in the "Money Rates" section of *The Wall Street Journal*. If *The Wall Street Journal* discontinues publication of the prime commercial lending rate, the Parties and Alcan shall agree on a mutually acceptable alternative source for that rate.

1.1.93 ~~1.1.94~~ **Prudent Utility Practice:** 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 which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could have been expected to accomplish the desired result at a 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 be any and all acceptable practices, methods, or acts generally accepted.

1.1.94 ~~1.1.95~~ **Rebate:** As defined in Section 4.9.

1.1.95 **Regulatory Account:** The regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers.

1.1.96 **Response:** As defined in Section 2.3.2(a)(ii)(2).

1.1.97 **Restructuring:** The occurrence of any of the following:

(a) the merger, consolidation or other combination of Big Rivers or an Affiliate or a Member with any Person (including acquisition of another utility system) if following such transaction Big Rivers or its successor would have had sales of Energy to all Members or regulated customers on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers' actual sales of Energy to the Members for such Fiscal Year;

(b) the acquisition of Big Rivers; or

(c) the admission of a new Member if following such admission Big Rivers would have had sales of Energy to all Members on a *pro forma* basis in the prior

Fiscal Year in excess of 105% of Big Rivers' actual sales of Energy to the Members for such Fiscal Year.

1.1.98 Restructuring Amount: As defined in Section 16.5.1.

1.1.99 RUS: United States Department of Agriculture Rural Utilities Service.

1.1.100 Scheduled Interruptible Energy: As defined in Section 2.3.2(a)(ii)(3).

1.1.101 Sebree Smelter: The aluminum reduction plant owned and operated by Alcan, located at Sebree, Kentucky, including any expansions, additions, improvements and replacements thereof or thereto at the existing site.

1.1.102 SERC: SERC Reliability Corporation, a regional reliability organization.

1.1.103 Service Period: As defined in Section 2.1.

1.1.104 Smelters: Alcan and Century.

1.1.105 Supplemental Energy: As defined in Section 2.3.2.

1.1.106 Supplemental Energy Charge: As defined in Section 4.3.

1.1.107 Surcharge: As defined in Section 4.11.

1.1.108 Surplus Sales: As defined in Section 10.1.1.

1.1.109 System Emergency: Any cessation of operation or reduction in the provision or delivery of Electric Services by Big Rivers due in whole or in part to: (a) a disconnection of all or a portion of Big Rivers' system from the transmission grid (other than as a direct result of Big Rivers' gross negligence or willful misconduct), (b) a system emergency on the transmission grid of a Third Party, or (c) the occurrence of a condition or situation where the delivery of Energy to a transmission grid with which Big Rivers is directly interconnected or the making available of generation services or Transmission Services which could cause (i) harm to life or limb or imminent serious threat of harm to life or limb, (ii) material damage to Big Rivers' system or any material component thereof or imminent danger of material damage to property, or (iii) other dangerous occurrences that Big Rivers believes, in the exercise of Prudent Utility Practice, should be prevented or curtailed.

1.1.110 System Firm: An obligation to supply Energy from ~~(i)~~;

(a) Big Rivers' owned or leased generation facilities, ~~(ii)~~

(b) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), and ~~(iii) or~~

(c) Big Rivers' Firm power purchase agreements with a term of two years or more which were not entered into for purpose of serving a specific non-Smelter load,

in each case subject to the occurrence of an Uncontrollable Force or similar event of force majeure, a System Emergency or Big Rivers' prior satisfaction of the Energy requirements of the Non-Smelter Members, the Smelters and Third Parties under power sales agreements entered into prior to such power sales agreement the making of such obligation to supply Energy.

1.1.111 Term: As defined in Section 7.1.

1.1.112 Third Party: A Person other than Kenergy, Alcan, Big Rivers or Century.

1.1.113 Third Party Supplier(s): As defined in Section 2.3.2(c).

1.1.114 TIER: The quotient for a Fiscal Year of (i) Big Rivers' interest expenses plus Net Margins, divided by (ii) Big Rivers' interest expenses; in each case, calculated in accordance with Accounting Principles.

1.1.115 TIER Adjustment: As defined in Section 4.7.5.

1.1.116 TIER Adjustment Charge: As defined in Section 4.7.1.

1.1.117 Transition Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$35 million, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. No additional principal amounts will be contributed by Big Rivers to the Transition Reserve after the Effective Date.

1.1.118 Transmission Charge: As defined in Section 4.5.

1.1.119 Transmission Services: Network transmission services as described in the OATT and Ancillary Services. Transmission Services are currently included in the Large Industrial Rate but may be unbundled.

1.1.120 Uncontrollable Force: Any cause beyond the control of the Party unable, in whole or in part, to perform its obligations under this Agreement which, despite exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid and which, despite the exercise of due diligence, it has been unable to overcome. Examples of events that may constitute the basis of an event which constitutes an "Uncontrollable Force" include: acts of God; strikes, slowdowns or labor disputes; acts of the public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; arrests and restraints of any Governmental Authority; civil or military disturbances; explosions, breakage of or accident to machinery, equipment or transmission lines; inability of a Party to obtain necessary materials, supplies or permits due to existing or future rules, regulations, orders, laws or proclamations of

Governmental Authorities, civil or military; transmission constraints or System Emergencies; a forced outage of a generating unit or units preventing the physical delivery of Energy to Kenergy for resale to Alcan; and any other forces which are not reasonably within the control of the Party claiming suspension. "Uncontrollable Forces" do not include an insufficiency of funds or decline in credit ratings or customary, expected or routine maintenance or repair of plant or equipment. Nothing contained herein shall be construed to obligate a Party to prevent or to settle a labor dispute against its will.

1.1.121 Undeliverable Energy Sales: As defined in Section 10.2.1.

1.1.122 Unwind Transaction: The consummation of the transactions contemplated on date of the "Closing" as defined in and pursuant to the Transaction Termination Agreement among Big Rivers, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.

1.2 Rules of Interpretation. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement will have the meanings specified in this Article 1 unless the context requires otherwise; (b) the singular will include the plural and vice versa; (c) references to "Recitals," "Articles," "Sections," "Exhibits" or "Schedules" are to the recitals, articles, sections, exhibits or schedules of this Agreement, unless otherwise specified; (d) all references to a particular Person in any capacity will be deemed to refer also to such Person's authorized agents, permitted successors and assigns in such capacity; (e) the words "herein," "hereof" and "hereunder" will refer to this Agreement as a whole and not to any particular section or subsection hereof; (f) the words "include," "includes" and "including" will be deemed to be followed by the phrase "without limitation" and will not be construed to mean that the examples given are an exclusive list of the topics covered; (g) references to this Agreement will include a reference to all exhibits and schedules hereto; (h) references to any agreement, document or instrument will be construed at a particular time to refer to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced as of such time; (i) the masculine will include the feminine and neuter and vice versa; (j) references to any tariff, rate, or order of any Governmental Authority will mean such tariff, rate or order, as the same may be amended, modified, supplemented or restated and be in effect from time to time; (k) if any action or obligation is required to be taken or performed on any day which is not a Business Day, such action or obligation must be performed on the next succeeding Business Day; (l) references to an Applicable Law will mean a reference to such Applicable Law as the same may be amended, modified, supplemented or restated and be in effect from time to time; (m) all accounting terms not defined in this Agreement will be construed in accordance with Accounting Principles; (n) all references to a time of day shall be a reference to the prevailing time in Henderson, Kentucky; and (o) the financial and production cost models prepared by Big Rivers, including models filed with the KPSC, in connection with the application for approval of the Unwind Transaction and the New Transaction (the "Model") have been prepared solely by Big Rivers and shall not be used by the Parties or any Governmental Authority to construe or interpret any provision of this Agreement. The Parties collectively have prepared this Agreement, and none of the provisions hereof will be construed against one Party on the ground that it is the author of this Agreement or any part hereof.

1.3 Calculations and Rounding. In making any mathematical calculation provided for or contemplated by this Agreement, the calculation will be made to six decimal places (rounded up if the numeral in the seventh decimal place is five or higher, and rounded down if the numeral in the seventh decimal place is lower than five).

ARTICLE 2

ELECTRIC SERVICES AND RATES

2.1 Service Period Obligations. In accordance with the terms and conditions of this Agreement, Big Rivers will sell and deliver, and Kenergy will purchase, Electric Services for resale to Alcan for a period beginning at 12:00:01 A.M. on the day next succeeding the Effective Date and continuing until 12:00:00 midnight on December 31, 2023, unless the Parties' respective obligations to supply and purchase Electric Services are earlier terminated pursuant to the terms of this Agreement (the "Service Period").

2.2 Characteristics of Service. Electric service to be supplied by Big Rivers to Kenergy under this Agreement for resale to Alcan shall be nominally three-phase, sixty cycle at 161,000 volts or as otherwise agreed to by the Parties and Alcan. The Parties and Alcan will mutually agree on limits of the regulation of voltage but at no time may such regulation of such limits be inconsistent with standards required by applicable Governmental Authorities or any other organizations that establish reliability and electric operation standards for the region.

2.3 Delivery Obligation. In accordance with this Agreement, during the Service Period, Big Rivers will deliver at the Point of Delivery to Kenergy for resale to Alcan Base Monthly Energy, Supplemental Energy and Back-Up Energy.

2.3.1 Base Monthly Energy. Kenergy may purchase for resale to Alcan in each Hour of the Service Period an amount of Energy up to the Base Demand per Hour. For billing purposes, Base Monthly Energy consists of two components: Base Fixed Energy charged at the Base Rate and Base Variable Energy (which may be either a positive or negative amount) charged or credited at the Base Variable Rate.

2.3.2 Supplemental Energy. "Supplemental Energy" shall consist of (i) Interruptible Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(a), (ii) Buy-Through Energy purchased by Kenergy from Big Rivers and, in turn, by Big Rivers from Third Party Suppliers upon the interruption of Interruptible Energy, pursuant to Section 2.3.2(b), and (iii) Market Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(c).

(a) Interruptible Energy. Kenergy may purchase from Big Rivers on a System Firm basis up to 10 MW per Hour of Energy for resale to Alcan, subject to availability, the scheduling requirements and Big Rivers' right to interrupt the sale and delivery of such Energy, all as set forth in this Section 2.3.2(a) ("Interruptible Energy").

(i) Confirmation. Not less than seven days prior to the beginning of each fiscal quarter of the Service Period (or the Effective Date with respect to the initial fiscal quarter of the Service Period), Big Rivers shall provide to Kenergy and Alcan a confirmation setting forth the price or prices and other terms and conditions ("Interruptible

Energy Terms”) under which Interruptible Energy may be available during each Hour of the subject fiscal quarter. If Big Rivers fails to provide a timely confirmation with respect to any fiscal quarter, the Interruptible Energy Terms for the prior fiscal quarter shall remain in effect. Big Rivers and Kenergy shall obtain Alcan’s consent to each confirmation as a condition to Big Rivers’ obligation to make Interruptible Energy available to Kenergy for scheduling during each fiscal quarter.

(ii) Scheduling of Interruptible Energy. The provision of Interruptible Energy shall be subject to the following requirements:

(1) At the request of Alcan, Kenergy shall submit to Big Rivers, no later than 3:00 PM on the second Business Day prior to the day of the scheduled delivery (or such shorter period agreed to by Big Rivers), a schedule for up to 10 MW of Interruptible Energy, in integral multiples of one MW per Hour, for the times and durations specified in the schedule.

(2) Big Rivers shall be under no obligation to accept the schedule submitted by Kenergy or to deliver the Interruptible Energy so scheduled, but shall, upon receipt of such schedule, notify Kenergy and Alcan by 9:00 AM of the Business Day prior to the day of scheduled delivery of the number of MW, if any, Big Rivers is willing to deliver and the hour and duration when the delivery shall take place (the “Response”).

(3) Subject to Big Rivers’ rights to interrupt in accordance with Section 2.3.2(a)(iii) below, Big Rivers shall sell and deliver the volume of Interruptible Energy at the time and for the duration specified in the Response (the “Scheduled Interruptible Energy”).

(iii) Interruption of Scheduled Interruptible Energy. The sale and delivery of Scheduled Interruptible Energy may be interrupted by Big Rivers at any time (a “Permitted Interruption”) upon the following terms and conditions:

(1) Upon a determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy will not be available on a System Firm basis, Big Rivers may implement a Permitted Interruption of all or any portion of the Scheduled Interruptible Energy by providing a notice of interruption (“Notice of Interruption”) to Kenergy and Alcan at least 30 minutes in advance of the estimated interruption;

(2) A Notice of Interruption may be made orally but shall be followed by facsimile or other electronic means acceptable to Kenergy and Alcan; and

(3) Upon an after-the-fact determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy was not available on a System Firm basis during a prior hour or hours, and notwithstanding that no Notice of Interruption had been issued, Big Rivers may implement retroactively a Permitted Interruption of Scheduled Interruptible Energy for such prior hour or hours, to the extent that such Scheduled Interruptible Energy was not available on a System Firm Basis.

(iv) Upon meeting the conditions required for a Permitted Interruption, Big Rivers shall have no obligation to sell and deliver the amount of Scheduled Interruptible Energy designated to be interrupted in the applicable Notice of Interruption. In connection with a Permitted Interruption, Big Rivers may provide, but shall not be required to provide, an opportunity for Kenergy to acquire Firm Energy, in lieu of the Scheduled Interruptible Energy, for resale to Alcan pursuant to the terms and conditions of Section 2.3.2(b) below. In the case of a Permitted Interruption that is implemented retroactively, the Energy delivered by Big Rivers shall be deemed to have been delivered as Backup Energy pursuant and subject to Sections 2.3.3 and 4.4.1. Big Rivers shall not be limited in the number of times that it may issue a Notice of Interruption or may implement a Permitted Interruption, or of the amount or duration of any Permitted Interruption.

(v) ~~(iv)~~ Allocation of Permitted Interruptions. If Kenergy has arranged for Scheduled Interruptible Energy during any Hour both to Kenergy under this Agreement for resale to Alcan and to Kenergy under the Century Wholesale Agreement for resale to Century, and Big Rivers determines that it will be unable or was unable during any prior Hour or Hours, to supply the full amount of Scheduled Interruptible Energy to Kenergy for both Alcan and Century, then:

(1) Big Rivers may provide a Notice of Interruption and implement a Permitted Interruption to Kenergy with respect to the Scheduled Interruptible Energy for Alcan or with respect to "Scheduled Interruptible Energy" as defined in the Century Retail Agreement, or any combination thereof; and

(2) Big Rivers may retroactively implement Permitted Interruptions for any Hour to Kenergy for Alcan and Century in equal amounts, taking into consideration any Permitted Interruption to Kenergy that had previously been implemented for the same Hour under clause (1) above.

(vi) ~~(v)~~ Termination of Interruptions. During any period of Interruption, Big Rivers may notify Kenergy and Alcan of its willingness to terminate the Interruption and resume the delivery of Scheduled Interruptible Energy at the Interruptible Energy Terms. Upon notification from Big Rivers terminating the Interruption, Kenergy shall purchase from Big Rivers and resell and deliver Scheduled Interruptible Energy to Alcan at the beginning of the next Hour that starts at least 10 minutes following such notice.

(b) Buy-Through Energy. Upon each Notice of Interruption, Big Rivers may in its sole discretion offer to sell to Kenergy Firm Energy purchased from Third Party Suppliers for resale to Alcan in lieu of the interrupted Scheduled Interruptible Energy ("Buy-Through Energy") and the estimated price or prices during the specified Hour or Hours of Interruption upon which Big Rivers would supply such Energy. Big Rivers shall provide Kenergy and Alcan not less than ten minutes from the time Alcan receives verbal Notice of Interruption to notify Big Rivers and Kenergy whether Alcan agrees to purchase Buy-Through Energy offered to be supplied by Big Rivers to Kenergy for resale to Alcan. Upon Alcan's or Kenergy's acceptance of the Buy-Through Energy, the obligation of Big Rivers to provide the Buy-Through Energy shall become a Firm service commitment. The failure of Alcan or Kenergy to notify Big Rivers of acceptance of the Buy-Through Energy during the period

provided shall constitute a rejection of the Buy-Through Energy, and the Interruption shall thereafter be implemented in accordance with the applicable Notice of Interruption and Big Rivers shall not have any obligation to supply Kenergy Buy-Through Energy for resale to Alcan during such Interruption.

(c) Market Energy. Big Rivers acknowledges and agrees that Kenergy may acquire Supplemental Energy (other than Interruptible Energy or Buy-Through Energy) from either Big Rivers or one or more suppliers other than Big Rivers ("Third Party Suppliers") for resale to Alcan ("Market Energy"), upon the request of Alcan specifying (i) the requested amount and duration of such Energy, and (ii) all requested prices and material terms and conditions. The sale of any Market Energy by Big Rivers shall be at the sole discretion of Big Rivers and shall be such terms and conditions as Big Rivers and Kenergy shall agree. Nothing in this Agreement shall be construed to limit the ability of Kenergy to purchase Energy or other electric services from Third Party Suppliers to serve Alcan.

(i) The Parties acknowledge and agree that (A) Kenergy shall request that Big Rivers provide all Transmission Services necessary to transmit Market Energy requested by Alcan from a point of interconnection on Big Rivers' transmission system to the Point of Delivery promptly following such request, (B) the amount of Market Energy transmitted from a point of interconnection on Big Rivers' system to the Point of Delivery would be reduced by the applicable system loss factor as provided in the OATT, and (C) Big Rivers shall have no liability to Kenergy for denial of Kenergy's duly submitted request for reservation of Transmission Services.

(ii) If Alcan is unable to receive and consume Market Energy purchased by Kenergy from Big Rivers or a Third Party Supplier because of an Uncontrollable Force, then upon the request of Kenergy, Big Rivers shall use reasonable commercial efforts to sell such Market Energy to other Third Parties for the duration specified by Alcan's request. Big Rivers shall apply all revenues derived from such resale as a credit to Kenergy, net of any transmission services charges or related charges or other expenses incurred to make such resale.

2.3.3 Back-Up Energy. Big Rivers shall sell and deliver and Kenergy shall purchase Back-Up Energy for resale to Alcan at the Point of Delivery through purchases of Energy at the prices and on the terms and conditions set forth in Section 4.4.

2.4 [Reserved]

2.5 Title and Risk of Loss. Title to and risk of loss with respect to Energy provided by Big Rivers to Kenergy for resale to Alcan pursuant to this Agreement will pass from Big Rivers to and rest in Kenergy when the same is made available by Big Rivers at the Point of Delivery. Until title passes, Big Rivers will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby. After title passes to Alcan, Big Rivers acknowledges and agrees that Alcan will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby.

2.6 Performance by Kenergy. Big Rivers acknowledges and agrees that, to the extent Alcan has a corresponding or related obligation to Kenergy under the Alcan Retail Agreement,

Kenergy's performance of an obligation under this Agreement is subject to and conditioned upon Alcan's performance of such corresponding or related obligation to Kenergy. Big Rivers acknowledges and agrees that Alcan may enforce an obligation of Big Rivers under this Agreement which corresponds or relates to an obligation of Kenergy to Alcan under the Alcan Retail Agreement.

ARTICLE 3

CHANGES IN DEMAND AND SCHEDULING

3.1 Change In Base Demand. Big Rivers acknowledges and agrees that Alcan may change the Base Demand for any Fiscal Year only with the written consent of Big Rivers and Kenergy.

3.2 Scheduling. Big Rivers acknowledges and agrees that:

(a) Alcan shall not be required to schedule Base Monthly Energy, Buy-Through Energy or Back-Up Energy but shall use reasonable commercial efforts to inform Big Rivers promptly of any material change in Alcan's intended usage; and

(b) In accordance with the OATT, Alcan shall schedule and arrange with Kenergy and Big Rivers no later than 9:00 A.M. on the Business Day immediately preceding the day or days of delivery pursuant to the Alcan Retail Agreement, or as otherwise mutually agreed by the Parties, the delivery of Interruptible Energy and Market Energy.

ARTICLE 4

CHARGES AND CREDITS

4.1 Monthly Charge. Kenergy shall pay Big Rivers the following (the "Monthly Charge") for the Electric Services provided or made available under this Agreement:

- 4.1.1 the Base Energy Charge calculated pursuant to Section 4.2,
- 4.1.2 plus the Supplemental Energy Charge calculated pursuant to Section 4.3,
- 4.1.3 plus the Back-Up Energy Charge calculated pursuant to Section 4.4,
- 4.1.4 plus the Transmission Charge pursuant to Section 4.5,
- 4.1.5 plus the Excess Reactive Demand Charge calculated pursuant to Section 4.6,
- 4.1.6 plus the TIER Adjustment Charge calculated pursuant to Section 4.7.1,
- 4.1.7 plus the FAC Charge calculated pursuant to Section 4.8.1,

4.1.8 plus the Non-FAC Purchased Power Adjustment Charge calculated pursuant to Section 4.8.2,

4.1.9 plus the Environmental Surcharge calculated pursuant to Section 4.8.3,

4.1.10 plus or minus the monthly amortization of the Restructuring Amount calculated pursuant to Section 16.5.1,

4.1.11 less the Rebate calculated pursuant to Section 4.9,

4.1.12 less the Equity Development Credit calculated pursuant to Section 4.10,

4.1.13 plus the Surcharge calculated pursuant to Section 4.11,

4.1.14 [Reserved],

4.1.15 less credits calculated pursuant to Section 4.13,

4.1.16 plus or minus other amounts calculated pursuant to Section 4.14, and

4.1.17 plus taxes calculated pursuant to Section 4.15.

4.2 Base Energy Charge. For any Billing Month, the “Base Energy Charge” shall be the sum of:

(a) the product of Base Fixed Energy and the Base Rate; and

(b) the product, whether positive or negative, of the Base Variable Energy and the Base Variable Rate.

(c) Sample calculations of the Base Energy Charge at different load factors are set forth in Exhibit A.

4.3 Supplemental Energy Charge. For any Billing Month, the “Supplemental Energy Charge” shall be the sum of the charges, whenever determined, for the Interruptible Energy Charge, the Buy-Through Energy Charge, and the Market Energy Charge as calculated below.

4.3.1 The “Interruptible Energy Charge” shall be the product of (i) the quantity of Interruptible Energy metered at the Point of Delivery during the Billing Month and (ii) the rate or rates for Interruptible Energy with respect to such Billing Month.

4.3.2 The “Buy-Through Energy Charge” shall be the sum of:

(a) the product of (i) the quantity of Buy-Through Energy metered at the Point of Delivery during the Billing Month and (ii) the quotient of (A) the actual rate or rates for such Buy-Through Energy that Big Rivers pays to a Third Party Supplier over (B) 1.00 less the loss factor set forth in the OATT; and

(b) all other charges that Big Rivers may be required to pay in connection with Buy-Through Energy, including (i) any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Buy-Through Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system, and (ii) any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Buy-Through Energy to Kenergy for resale to Alcan.

4.3.3 The "Market Energy Charge" shall be the sum of:

(a) the product of (i) the quantity of Market Energy metered at the Point of Delivery during the Billing Month and (ii) the quotient of (A) the actual rate or rates for such Market Energy agreed to between Big Rivers and Kenergy, over (B) 1.00 less the loss factor set forth in the OATT; and

(b) all other charges that Big Rivers may be required to pay to Third Party Suppliers in connection with Market Energy, including (i) any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Market Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system and (ii) any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Market Energy to Kenergy for resale to Alcan.

4.4 Back-Up Energy Charge. For any Billing Month, the "Back-Up Energy Charge" shall be the sum of the Hourly charges for Back-Up Energy calculated as follows:

4.4.1 The charge for Back-Up Energy supplied in any Hour shall equal the following:

(a) to the extent the Back-Up Energy was supplied from generating facilities owned or controlled by Big Rivers and located within Big Rivers' transmission control area, the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to the greater of (1) the real time Hourly locational marginal price at Big Rivers' interface with the Midwest Independent System Operator (or such other pricing reference point that shall be mutually agreed upon by the Parties and Big Rivers), and (2) Big Rivers' system lambda; divided by (B) 1.00 minus the loss factor set forth in the OATT;

(b) to the extent the Back-Up Energy was not supplied pursuant to Section 4.4.1(a), the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to 110% of the highest Hourly all inclusive cost incurred by Big Rivers to acquire any Energy, including such Back-Up Energy, and the separate cost, if any, whenever determined, of transmission services and related services provided by a Third

Party whose transmission system is used to transmit Back-Up Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system and including any imbalance charges or other costs arising from the failure of a Third Party Supplier to deliver Energy that it is obligated to deliver; divided by (B) 1.00 minus the loss factor set forth in the OATT; and

(c) to the extent that the amount of Back-Up Energy required by Kenergy for resale to Alcan during any hour exceeds the sum of (x) ten MW per Hour, (y) the amount of Back-Up Energy resulting from deemed Interruption of Scheduled Interruptible Energy pursuant to Section 2.3.2(a)(iii), and (z) the amount of Back-Up Energy resulting from the non-delivery of Market Energy purchased by a Third Party Supplier, then the charge for the excess amount of Back-Up Energy shall be the product of (i) the excess amount of Back-Up Energy, and (ii) the greater of (A) \$250 per MWh and (B) the price set forth in Section 4.4.1(b)(ii).

Sample calculations of the Back-Up Energy Charge are set forth in Exhibit A.

4.4.2 If during any Hour Big Rivers provides Back-Up Energy to Kenergy for resale to Alcan and "Back-Up Energy" (as defined in the Century Wholesale Agreement) to Kenergy for resale to Century, then the provisions of Section 4.4.1 shall apply to a proportional number of MW of Back-Up Energy for resale to each of Alcan and Century.

4.5 Charge for Transmission Services and Ancillary Services. For any Billing Month, the charge for transmission services and ancillary services (the "Transmission Charge") shall be the sum of the charges, calculated in accordance with the OATT, for Transmission Services for (a) Base Monthly Energy that are unbundled from the Large Industrial Rate, if any; and (b) Supplemental Energy.

4.6 Excess Reactive Demand Charge. For any Billing Month, the "Excess Reactive Demand Charge", if any, shall be the product of \$0.1433 and the amount, expressed in kilovars, of the difference, if positive, between:

(a) the maximum metered reactive demand of Alcan during the Billing Month, and

(b) an amount of kilovars equal to the sum of:

(i) the product of (A) 0.4843, and (B) the maximum hourly demand during a Billing Month, denominated in kilowatts, associated with Base Monthly Energy, Interruptible Energy, Market Energy, "Market Energy" under the Alcan Retail Agreement that is purchased by Kenergy from Third Party Suppliers for resale to Alcan, and Back-Up Energy provided by Big Rivers to Kenergy for resale to Alcan, but less the amount of such Interruptible Energy, Market Energy or Back-Up Energy that was purchased by Big Rivers from Third Parties, and

(ii) 54,114.

4.7 TIER Adjustment Charge.

4.7.1 The “TIER Adjustment Charge” shall be, for any Fiscal Year, the amount that is the product of the Applicable Percentage and the TIER Adjustment if, and only if, such TIER Adjustment is a positive amount; *provided, however*, that in no case will the TIER Adjustment Charge for any Fiscal Year exceed the amount that is the product of the Base Fixed Energy and the maximum additional charge per MWh set forth below for the applicable Fiscal Year:

<u>Fiscal Years</u>	<u>Maximum Additional Charge</u>
2008-2011	\$1.95 per MWh
2012-2014	\$2.95 per MWh
2015-2017	\$3.55 per MWh
2018-2020	\$4.15 per MWh
2021-2023	\$4.75 per MWh

If the TIER Adjustment shall be negative, there will be an Excess TIER Amount and no TIER Adjustment Charge.

4.7.2 Prior to each Fiscal Year, Big Rivers shall estimate both the TIER Adjustment and, if the TIER Adjustment is positive, the TIER Adjustment Charge based on the Budget for such Fiscal Year. Big Rivers shall collect such estimated amount from Kenergy in equal monthly installments as part of the Monthly Charge for each Billing Month during the applicable Fiscal Year.

4.7.3 Within 45 days following the end of the first, second and third fiscal quarters of each Fiscal Year beginning with the first fiscal quarter after the first anniversary of this Agreement, Big Rivers shall again estimate the TIER Adjustment and the corresponding amount of the TIER Adjustment Charge based on a comparison of the Budget and year-to-date results of operations, and shall calculate a modified amount to be collected from, or refunded as a credit to, the Monthly Charge to Kenergy with respect to service to Alcan during the remaining portion of the Fiscal Year, including any amounts necessary to address any estimated under- or over-collection of the TIER Adjustment Charge from Kenergy with respect to service to Alcan as compared to the Budget during the remainder of the Fiscal Year. Big Rivers shall collect or credit such modified amount from Kenergy pursuant to this Agreement in equal monthly installments as part of the Monthly Charge for the remaining Billing Months of the subject Fiscal Year.

4.7.4 As soon as reasonably practicable but no later than 120 days after the end of each Fiscal Year, Big Rivers shall calculate the TIER Adjustment and TIER Adjustment Charge for such Fiscal Year. The TIER Adjustment Charge for such Fiscal Year shall be compared to the aggregate amounts paid by Kenergy in respect of the estimated TIER Adjustment Charge for such Fiscal Year, and the difference between such amounts shall be included as a charge or credit, as applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year.

4.7.5 The “TIER Adjustment” shall be the amount of incremental revenue, whether positive or negative, calculated with respect to each Fiscal Year after determination of Net Margins for such Fiscal Year (excluding amounts payable by Kenergy with respect to or relating to the revenue that results from the TIER Adjustment Charge and the "TIER Adjustment Charge" as defined in the Century Wholesale Agreement), that is necessary for Big Rivers to receive in order to achieve a TIER of 1.24 for such Fiscal Year; *provided, however*, that if the Service Period commences or terminates on a date other than the first or last day of a Fiscal Year and to give effect to this Section 4.7.5, the TIER Adjustment will be calculated on an Hourly basis only with respect to the partial period of the first, second or final Fiscal Year of the Service Period, as applicable. The determination of the TIER Adjustment shall be subject to the following:

(a) It shall be assumed that: Big Rivers shall have generated additional revenue from service to the Members for resale to the Non-Smelter Ratepayers as if Big Rivers had increased the Non-Smelter Member Rates by a weighted average of 2.00% in 2010, another 2.50% in 2018 and another 4.00% in 2021 if and to the extent Big Rivers had not prior to or during the year of the calculation increased the Non-Smelter Member Rates by at least such amounts. The revenues from any roll-in of the costs associated with costs recovered under the FAC~~—or~~, the Environmental Surcharge Rider or the Regulatory Account that isare incorporated into base rates comprising a portion of the Non-Smelter Member Rates will not constitute an increase in the Non-Smelter Member Rates for purposes of this clause (a), and the revenues attributable to any such roll-in will be excluded in calculating the percentage of any increases in the Non-Smelter Member Rates. The expiration or termination of Big Rivers’ Member Discount Adjustment Rider shall be deemed to be an increase in the Non-Smelter Member Rates for purposes of this clause (a), without regard to whether such expiration or termination occurs prior to, on or after the Effective Date.

(b) It shall be assumed that: If a Member provides electric service to a New Ratepayer with a Firm demand in excess of 15 MW, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the greater of: (i) the amount paid for such service and (ii) an amount calculated for the same period equal to (A) a rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with the New Ratepayer’s load factor, plus \$0.25 per MWh, *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis), *plus* (C) the Surcharge (the Surcharge being calculated on an amount per MWh based on Base Fixed Energy for such Fiscal Year) set forth in Section 4.11, *plus* (D) amounts corresponding to the amount per MWh paid by Kenergy during the same period for the TIER Adjustment Charge. If a Member provides electric service to a New Ratepayer with a Firm demand of 15 MW or less, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the sum of: (i) the Large Industrial Rate, and (ii) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis). For purpose of this clause (b), the revenues produced by any surcharge with respect to a New Ratepayer similar to the Surcharge or the “Surcharge” under the Century Retail Agreement will be assumed to accrue solely to the benefit of the Non-Smelter Ratepayers except to the extent such surcharge is paid by or imputed to a New Ratepayer pursuant to subclause (A) of this clause (b). The assumptions contained in

this clause (b) shall not apply with respect to a New Ratepayer that first interconnects with Big Rivers' transmission system during the last three Fiscal Years of the Service Period or following notice of termination of this Agreement or the Century Retail Agreement.

(c) It shall be assumed that: Big Rivers' interest expense shall have been reduced by the product of (i) Big Rivers' average effective interest rate for borrowed money for the prior Fiscal Year, and (ii) the aggregate amount of any patronage capital retired by Big Rivers to its Members during the Service Period (other than any distribution from the Economic Reserve or the Transition Reserve or relating to the Surcharge or the "Surcharge" under the Century Wholesale Agreement), from and after the date of such retirement.

(d) It shall be assumed that: Interest on construction work-in-progress relating to the construction of new electric generating facilities or transmission facilities shall have been capitalized by Big Rivers if it has the right to elect to do so or it is obligated to capitalize such interest under Accounting Principles unless a Governmental Authority has approved the inclusion of such interest expenses in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such interest expenses.

(e) If Big Rivers acquires or constructs non-peaking electric generating facilities alone or with others ("New Facilities"), Big Rivers' interest expenses shall not include the interest imputed on the debt relating to the New Facilities ("Imputed Interest"); *provided, however*, that if a Governmental Authority has approved the inclusion of such generating facilities in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge to provide for the recovery of the costs of such New Facilities, then actual interest expense with respect to such New Facilities shall be included in the TIER calculation to the extent recovery is permitted; *provided, further*, that this clause (e) may not cause the TIER Adjustment to become negative. For purposes of determining Imputed Interest, it shall be assumed that the New Facilities were financed 80% with debt and 20% with equity. Imputed Interest shall equal the product of (i) the weighted average interest rate on Big Rivers' debt for the Fiscal Year, and (ii) the amount of debt equal to 80% of the capital invested in the New Facilities.

(f) It shall be assumed that: ~~The Alean FAC Reserve, the Century FAC Reserve (as defined in the Century Wholesale Agreement), the Economic Reserve and the Transition Reserve shall not generate any revenue or tax liability and the application of funds from the Alean FAC Reserve, the Century FAC Reserve (as defined in the Century Wholesale Agreement), the Economic Reserve or the Transition Reserve shall not result in any change in the Net Margins of Big Rivers.~~

(g) It shall be assumed that: Big Rivers shall have made no payment for damages or indemnification to or for the benefit of a Smelter with respect to the provision of Electric Services or "Electric Services" as defined in the Century Wholesale Agreement.

(h) It shall be assumed that: Big Rivers shall have paid no criminal penalties with respect to its acts or omissions other than criminal penalties that a

Governmental Authority has approved the inclusion of in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such penalties.

(i) It shall be assumed that: Big Rivers shall have received no proceeds from the sale of Energy to the wholesale market pursuant to Section 4.13.3 or the corresponding section of the Century Wholesale Agreement.

(j) It shall be assumed that: Big Rivers shall have incurred no expenses that are impermissible for inclusion in rates of electric generation and transmission cooperative utilities subject to the jurisdiction of the KPSC for rate-making purposes (currently including advertising expenses, branding expenses, charitable contributions and lobbying expenses) or specifically disallowed for rate making purposes by a Governmental Authority; *provided, however*, that denial by a Governmental Authority of expense recovery through the FAC or the Environmental Surcharge Rider shall not constitute an expense that is impermissible for inclusion in rates if the nature of such expense is recoverable in base rates.

(k) It shall be assumed that: There are no revenues and expenses associated with non-regulated businesses of Big Rivers.

(l) It shall be assumed that: No interest is paid pursuant either to Section 5.3 or Section 5.4 or pursuant to the corresponding sections of the Century Wholesale Agreement.

(m) It shall be assumed that: No amounts have been or are payable with respect to Excess Reactive Demand Charges or with respect to "Excess Reactive Demand Charges" under the Century Wholesale Agreement.

(n) It shall be assumed that: No administrative fee shall have been received by Big Rivers as a result of any Surplus Sales, Undeliverable Energy Sales or Potline Reduction Sales or sales of Energy pursuant to the corresponding sections of the Century Wholesale Agreement.

(o) Additional costs related to a change in Big Rivers' depreciation rates may not be included in the calculation of the TIER Adjustment unless such change has been approved, consented to or accepted by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by the RUS or any other Governmental Authority having jurisdiction over such change, if any.

(p) It shall be assumed that: The amortization of any Restructuring Amount is zero.

4.7.6 Any proceeds received or transaction costs paid by Big Rivers as part of or in connection with the consummation of the Unwind Transaction shall be disregarded for purposes of computing the TIER Adjustment Charge for the Fiscal Year in which the Unwind Transaction occurs.

4.8 Adjustable Charges.

4.8.1 The “FAC Charge” shall be the product of the FAC Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.2 The “Non-FAC Purchased Power Adjustment Charge” shall be the product of the Non-FAC Purchased Power Adjustment Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.3 The “Environmental Surcharge” shall be the product of the Monthly Environmental Surcharge Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.9 Rebate. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers elects to implement a rebate to its Members in respect thereof, then no later than the first day of the fifth month of the following Fiscal Year, Big Rivers will credit to Kenergy for further credit to Alcan an amount (the “Rebate”) equal to the product of:

- (i) the Excess TIER Amount, and
- (ii) a fraction:
 - (1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and
 - (2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers’ aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of “Base Fixed Energy” as defined in the Century Retail Agreement (without regard to whether the Century Retail Agreement is then in effect).

4.10 Equity Development Credit. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers does not elect to implement a rebate to its Members, then no later than the first day of the fifth month of the following Fiscal Year, Big Rivers will credit against the next Monthly Charge an amount (the “Equity Development Credit”) equal to the product of:

- (i) the Excess TIER Amount, and
- (ii) a fraction:
 - (1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and
 - (2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers’ aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of “Base Fixed Energy” as defined in the Century Retail Agreement (without regard to whether the Century Retail Agreement is then in effect).

4.10.2 Notwithstanding the above, the Equity Development Credit for any Fiscal Year may not exceed an amount which would cause the charge for Base Fixed Energy (including Energy curtailed pursuant to Section 4.13.2 or sold to Third Parties pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales) less the Equity Development Credit for such Fiscal Year on a per MWh basis to be less than (A) the Large Industrial Rate for a customer with a 98% load factor *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis).

4.11 Surcharge. In addition to any other amounts payable under this Agreement, and ~~notwithstanding~~ **notwithstanding** anything in this Agreement to the contrary, Kenergy shall pay a surcharge (the "Surcharge") equal to the sum of the following:

(a) As applicable:

(i) \$184,361 each Billing Month from the Effective Date through and including December, 2011;

(ii) \$263,373 each Billing Month from January, 2012 through and including December, 2016;

(iii) \$367,380 each Billing Month from January, 2017 through the expiration of the stated Term of this Agreement; plus

(b) For any Billing Month, the product of (i) Base Fixed Energy and (ii) \$0.60 per MWh; and plus

(c) For any Billing Month, the product of (i) Base Fixed Energy and (ii) the number of cents per MW per Hour (which number shall not exceed 60 or be less than zero) that Big Rivers' projected annual average costs per MWh for fuel consumed by Big Rivers in its coal-fired generation as set forth in its Budget are greater than the amounts set forth on Schedule 4.11(c), in each case, for that Fiscal Year relating to such Billing Month. Big Rivers shall within 45 days following the end of each fiscal quarter compute its actual costs per MWh for fuel consumed by Big Rivers' coal-fired generation in each Billing Month for such fiscal quarter and shall calculate (on a fiscal-year-to-date basis in a manner consistent with this Section 4.11(c)) an additional amount to be paid by or credited to Kenergy based on such actual costs incurred for fuel consumed compared to the amounts set forth in the Budget for such Billing Months; *provided*, any additional amounts to be paid by or credited to Kenergy shall be applied to amounts due for the remainder of the Fiscal Year under this Section 4.11(c). Within 120 days of the end of each Fiscal Year, an additional amount shall be credited to Kenergy if necessary so that the total amounts paid pursuant to this Section 4.11(c) for such Fiscal Year shall not exceed an amount equal to the product of Base Fixed Energy for such Fiscal Year and 60 cents per MW per Hour; such amount shall be included as a credit, if applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year.—: minus

(d) For each of the first 96 Billing Months, \$86,588.

4.11.2 The obligation of Kenergy to pay the Surcharge will cease to accrue upon the termination of this Agreement. Sample calculations of the Surcharge under Section 4.11(c) are set forth in Exhibit A.

4.12 [Reserved]

4.13 Credits.

4.13.1 Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales. For any Billing Month, Big Rivers shall credit Kenergy (a) the Net Proceeds of any Surplus Sales pursuant to Section 10.1 to the extent of the Avoidable Base Charge; and (b) the amount of Net Proceeds of any Undeliverable Energy Sales or Potline Reductions Sales to which Kenergy is entitled pursuant to Section 10.2 or Section 10.3, respectively, less \$0.25 per MWh as Big Rivers' administrative fee in each case. Sample calculations of the Net Proceeds from Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales that would be credited to Kenergy are set forth in Exhibit A.

4.13.2 Curtailement of Purchased Power. For any Billing Month, Big Rivers will credit Kenergy for any Hour during such Billing Month an amount equal to the product of (a) the Market Reference Rate during such Hour, and (b) the amount of Base Demand per Hour curtailed, if any, during such Hour in an amount and for a duration mutually agreed among Big Rivers, Kenergy and Alcan pursuant to this Section 4.13.2 and the corresponding section of the Century Wholesale Agreement. If both Alcan and Century agree to the curtailement of the delivery of Base Demand per Hour pursuant to this Section 4.13.2 of the Alcan Retail Agreement and the corresponding section of the Century Retail Agreement, Alcan and Century must notify Big Rivers and Kenergy as to whose curtailement shall take precedence. If Big Rivers is not notified as to whose curtailement shall take precedence, the Smelter whose curtailement is largest shall take precedence, and if the amount of curtailement by each Smelter is the same, then the Smelter whose curtailement notice was received by Big Rivers first shall take precedence. Sample calculations of credit that would be due to Kenergy for curtailement of purchased power are set forth in Exhibit A.

4.13.3 Economic Sales. For any Billing Month, Big Rivers will credit Kenergy 75% of the Net Proceeds that Big Rivers receives in respect of the curtailement of the delivery of Base Demand per Hour in an amount and for a duration mutually agreed among Big Rivers, Kenergy and Alcan if Big Rivers sells such curtailed Base Demand per Hour to the wholesale Energy market ("Economic Sales"); *provided*, that unless otherwise agreed among Big Rivers, Kenergy and Alcan, (a) the amount of Base Demand per Hour curtailed by Kenergy on behalf of Alcan may not exceed 100 MW per Hour, (b) the number of curtailements each year shall be limited to twelve, and (c) each curtailement may not last longer than four Hours, and *provided further*, that Big Rivers shall have no obligation to make Economic Sales until after Big Rivers first sells all of its own surplus Energy to the wholesale Energy market. If Kenergy on behalf of both Alcan and Century agree to the curtailement of the delivery of Base Demand per Hour pursuant to this Section 4.13.3 and the corresponding section of the Century Wholesale Agreement, Alcan and Century must notify Big Rivers and Kenergy as to whose curtailement shall take precedence. If Big Rivers is not notified as to whose curtailement shall take precedence, the Smelter whose curtailement is largest shall take precedence, and if the amount of

curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Big Rivers first shall take precedence. Sample calculations of the portion of the Net Proceeds from Economic Sales that would be credited to Kenergy are set forth in Exhibit A.

~~4.13.4 [Reserved]~~

~~4.13.5 Alcan FAC Reserve Credit~~

~~(a) For any Billing Month in 2009 or later in which the FAC Factor (expressed on a MWh basis) exceeds the amount set forth on Schedule 4.13.5 for the year relating to such Billing Month, Big Rivers will credit the Monthly Charge by an amount equal to the product of (1) such excess, (2) Base Monthly Energy, and (3) 0.090909. Each credit pursuant to this Section 4.13.5 shall reduce the Monthly Charge owed and the Alcan FAC Reserve by a corresponding amount. Big Rivers will credit the Monthly Charge and the Alcan FAC Reserve pursuant to this Section 4.13.5 only to the extent that the Alcan Reserve Account would not be reduced below zero following the application thereof. For purposes of this Section, the "FAC Factor" set forth on Schedule 4.13.5 shall be adjusted to reflect any roll-in after the Effective Date of costs associated with costs recovered under the FAC that are incorporated into base rates comprising a portion of the Large Industrial Rate.~~

~~(b) Upon termination of the Alcan Retail Agreement and after the determination of the final Monthly Charge thereunder, any remaining funds in the Alcan FAC Reserve shall be credited by Big Rivers to the Economic Reserve.~~

4.14 Other Amounts. For any Billing Month, any amounts payable pursuant to Section 10.1.4, ~~10.2.3~~10.2.2 or 10.3.7 shall be added to or subtracted as applicable from the calculation of the Monthly Charge.

4.15 Taxes. No state or local sales, excise, gross receipts or other taxes are included in the charges and credits set forth in this Article 4. Kenergy shall pay or cause to be paid any such taxes which are now or hereafter become applicable to the sale of Electric Services to Kenergy under this Agreement.

ARTICLE 5

BILLING

5.1 Monthly Invoice. Big Rivers shall bill Kenergy on or before the ~~fifth~~tenth Business Day of each month for the Monthly Charge as calculated pursuant to Article 4 based on the sale of Electric Services during the most recently ended Billing Month plus any other amounts then due and owing pursuant to this Agreement. Kenergy shall pay or cause to be paid to Big Rivers the Monthly Charge and any other amounts due and owing in immediately available funds to an account designated in the Lockbox Agreement on the Business Day following the 24th day of the month following the Billing Month. For the convenience of the Parties, and to facilitate satisfaction of Kenergy's obligation to Big Rivers, Kenergy has assigned to Big Rivers its right to receive payment from Alcan under the Alcan Retail Agreement and its rights to collect and enforce collection of such amounts due from Alcan other than with respect to the "Retail Fee" as defined in the Alcan Retail Agreement pursuant to the Lockbox

Agreement. Big Rivers hereby releases Kenergy from further liability under this Agreement for amounts subject to such assignment to Big Rivers, *provided* that such release does not relieve Kenergy of its other liabilities or responsibilities under this Agreement. Kenergy shall cooperate with and assist Big Rivers with respect to any collections of amounts due from Alcan to Kenergy which are assigned to Big Rivers; *provided*, that Big Rivers will reimburse Kenergy for any reasonable expenses Kenergy incurs in providing such cooperation or assistance.

5.2 Right to Discontinue Service. If Kenergy (or Alcan on behalf of Kenergy) fails to pay any monthly invoice rendered by Big Rivers within the time prescribed in Section 5.1, Big Rivers may discontinue delivery of any or all Electric Services hereunder upon 120 Hours prior written notice to Kenergy and Alcan of its intention to do so. Big Rivers' discontinuance of such service for non-payment will not in any way affect, diminish or limit the obligations of Kenergy (or Alcan on behalf of Kenergy) to make all payments required under this Agreement or the Alcan Retail Agreement, as and when due.

5.3 Default Interest. If any monthly invoice rendered by Big Rivers is not paid on the due date, interest will accrue and become payable by Kenergy to Big Rivers on all unpaid amounts at a rate of four percentage points over the Prime Rate commencing on the first day after the due date.

5.4 Payments Under Protest. If any portion of any monthly statement is disputed by Kenergy (or Alcan), the disputed amount must be paid, under protest, when due. If the disputed amount of the payment is found to be incorrect, Big Rivers shall promptly cause to be refunded to Kenergy (or to Alcan on behalf of Kenergy, as applicable) the amount that was not then due and payable, together with interest at the Prime Rate commencing on the first day after the date of payment and accruing on each day thereafter until the date the refund is made.

5.5 [Reserved.]

5.6 No Waiver. No payment made by Kenergy (or Alcan on Kenergy's behalf) pursuant to this Article 5 will constitute a waiver of any right of Kenergy (or Alcan) to contest the correctness of any charge or credit.

5.7 No Payment. In no case shall Big Rivers be obligated to make a payment to Kenergy in connection with the application of a credit to Kenergy's Monthly Charges except to the extent otherwise expressly provided in Section 10.2.1(a) with respect to Undeliverable Energy Sales.

ARTICLE 6

EFFECTIVE DATE AND CONDITIONS

6.1 Effective Date. The obligations of the Parties under Article 2, Article 3, Article 4, Article 5, Section 7.3, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 14 and Section 16.5 shall not commence until the Effective Date. The "Effective Date" will occur on the first date each of the conditions set forth in Section 6.2 has been satisfied in full or waived in writing by the Party in whose favor such condition exists (to the extent one or more conditions is subject to being waived).

6.2 Conditions to Occurrence of Effective Date. The following shall be conditions to the occurrence of the Effective Date:

6.2.1 Each of the representations and warranties of the Parties contained in this Agreement and the representations and warranties of Kenergy and Alcan in the Alcan Retail Agreement will be true and correct as of the date hereof and the Effective Date (as though such representations and warranties were made at and as of the date hereof and the Effective Date), and each of the Parties shall have received a certificate to such effect from the other Party with respect to the other Party's representations and warranties in this Agreement and Big Rivers shall have received a certificate to such effect from Kenergy and Alcan in respect of their respective representations and warranties in the Alcan Retail Agreement.

6.2.2 The Unwind Transaction will have been consummated, including the termination of the agreements set forth on Schedule 6.2.2.

6.2.3 Each of the documents and agreements set forth in Schedule 6.2.3 will have been duly authorized, executed and delivered by the parties thereto, and all conditions precedent to the effectiveness of such agreements will have been satisfied or waived, and shall, if amended after the date hereof and prior to the Effective Date, be acceptable to Alcan.

6.2.4 [Reserved]

6.2.5 The Alcan Guarantee will have been duly authorized, executed and delivered by Alcan Parent and be in full force and effect.

6.2.6 Release documents releasing the liabilities and obligations under the documents listed on Schedule 6.2.2 will have been duly authorized, executed and delivered by Big Rivers, Kenergy, Century, LG&E and Alcan, as applicable.

6.2.7 Each Member will have authorized, executed and delivered an amendment to its wholesale power contract with Big Rivers relating to the supply of electric service to the Member for its requirements (other than in the case of Kenergy, the requirements of Alcan and Century) to extend the term of such contract until a date satisfactory to Big Rivers.

6.2.8 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary prior to start of the Service Period, other than (i) as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time after the Effective Date and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Big Rivers has no reason to believe will not be timely obtained and in each case which do not prevent provision of Electric Services as described herein, and (ii) with respect to the approval of the KPSC or FERC, on the Effective Date, such approvals will have been duly given or issued, received and will be in full force and effect and unappealable, and all conditions therein will have been satisfied to the extent required to be satisfied by Kenergy or Big Rivers on or prior to the Effective Date.

6.2.9 The Alcan Retail Agreement, the Century Wholesale Agreement and the Century Retail Agreement will have been duly authorized, executed and delivered by the

parties thereto and be in full force and effect and all conditions precedent to the effectiveness will have been satisfied or waived other than conditions within the control of Kenergy or conditions that automatically will become effective simultaneously with the Effective Date or the Unwind Transaction.

6.2.10 RUS shall have consented to the Unwind Transaction and the New Transaction and to all arrangements and agreements required to implement the Unwind Transaction and the New Transaction.

6.3 Efforts to Satisfy Conditions to Effective Date. Each of the Parties shall use commercially reasonable efforts and act in good faith to satisfy all of the conditions set forth in Section 6.2 at the earliest practicable date (other than those which the applicable Party agrees to waive). At such time as Big Rivers or Kenergy believes such conditions have been satisfied, such Party shall notify the other Party in writing. The obligations of the Parties under this Section 6.3 will continue until the earlier of (a) such time as this Agreement terminates pursuant to Section 7.2, and (b) the Effective Date.

ARTICLE 7

TERM AND TERMINATION

7.1 Term. Subject to Section 6.1, this Agreement will become binding on the Parties on the date of execution and delivery by the Parties and will remain in full force and effect until December 31, 2023 (the "Term"), unless earlier terminated pursuant to the terms hereof.

7.2 Termination Prior to Effective Date. This Agreement may be terminated without cost or penalty prior to the occurrence of the Effective Date in accordance with this Section 7.2.

7.2.1 Termination for Failure to Satisfy Conditions to Effective Date. Either Party may terminate this Agreement without cost or penalty by providing five Business Days' prior written notice of termination to the other Party upon the failure of the conditions in Section 6.2 to be satisfied in full or waived by the Person in whose favor the condition exists on or before [____], or such later date as the Parties may agree, unless any such condition is satisfied or waived by the applicable Person within such five Business Day period.

7.2.2 Termination In Event Unwind Transaction Will Not Be Consummated. This Agreement may be terminated by either Party at any time prior to the Effective Date upon receipt of notice from LG&E or Big Rivers that either LG&E or Big Rivers does not intend to consummate the Unwind Transaction.

7.2.3 Termination Due to KPSC Modification. If the KPSC issues an order on any of the filings by Big Rivers or other Persons seeking necessary approvals for the Unwind Transaction and the New Transaction that disapproves or changes the pricing or other material terms of this Agreement or the Alcan Retail Agreement or Big Rivers' ability to recover costs from the Smelters or the Non-Smelter Ratepayers other than as contemplated in connection with the New Transaction, either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Alcan no later than three Business Days after the first to occur of the following: (i) the last date on which a petition for re-hearing

may be filed if such a petition has not been filed, (ii) the date on which the KPSC issues an order denying the request for re-hearing for any petition for re-hearing that may have been filed during the allowed period, and (iii) if a rehearing occurs, following the date on which an order on rehearing is issued.

7.2.4 Termination Pursuant to Alcan Termination. Either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other following receipt by Kenergy of a notice of termination from Alcan pursuant to and in accordance with Section 7.2.3 of the Alcan Retail Agreement.

7.2.5 Effect of Pre-Effective Date Termination. If this Agreement is terminated in accordance with this Section 7.2, Big Rivers and Kenergy acknowledge and agree that the Existing Alcan Agreement and the Kenergy/LG&E Contract and all other related documents and agreements will continue in full force and effect as if this Agreement had not been executed and delivered by the Parties.

7.3 Termination After the Effective Date. This Agreement may be terminated after the occurrence of the Effective Date in accordance with this Section 7.3.

7.3.1 Termination for Closing of Sebree Smelter. Either Party may terminate this Agreement as of the date Alcan terminates the Alcan Retail Agreement pursuant to Section 7.3.1 therein in connection with the termination and cessation of all aluminum smelting operations at the Sebree Smelter.

7.3.2 Termination for Event of Default. This Agreement may be terminated following the occurrence and during the continuation of an Event of Default pursuant to Article 14.

7.3.3 Termination Following KPSC Order.

(a) Big Rivers may terminate this Agreement without cost or penalty by providing written notice of termination to Kenergy and Alcan within three Business Days of the issuance by the KPSC of an order unconditionally or conditionally approving this Agreement and the Alcan Retail Agreement in connection with the consummation of the Unwind Transaction if Big Rivers determines in its business judgment, exercised in good faith, that the Unwind Transaction is not in Big Rivers' best interests.

ARTICLE 8

METERING

8.1 Metering Facilities. Big Rivers will provide or cause to be provided metering facilities at the Point of Delivery which measure Hourly kW, kWh, kilovars, kilovar-hours and voltage fluctuation spectra.

8.2 Reading. Big Rivers will read or cause to be read the meters at the Point of Delivery on the last date of each month (or such other date as may be agreed upon by the Parties).

8.3 Testing. Big Rivers will test, or cause to be tested, the calibration of the meters at the Point of Delivery by comparison of accurate standards at least once every twelve months (or more often if so required by Applicable Law) and will give Kenergy and Alcan not less than five Business Days' prior notice of such testing. Kenergy and Alcan will have the right to observe and participate in all meter tests. Meters registering not more than plus or minus 1% inaccurate will be deemed to be accurate (unless Applicable Law establishes a standard more stringent than 1%, in which case, the more stringent standard will apply). The reading of any meter which will have been disclosed by tests to be inaccurate will be corrected for the 60 days before such tests (or for such shorter period if applicable) in accordance with the percentage of inaccuracy found by such tests. If any meter should fail to register for any period, the Parties and Alcan will make mutually agreed upon estimates for such period from the best information available. If Kenergy or Alcan requests a special meter test, Big Rivers shall cause such test to be conducted; *provided, however*, that if any special meter test made at the request of Kenergy or Alcan discloses that the meters are not more than plus or minus 1% inaccurate, Kenergy or Alcan, as applicable, shall reimburse Big Rivers for the reasonable cost of such test. In all other respects, meters through which Big Rivers delivers Energy to Kenergy for resale to Alcan shall be installed, operated, maintained and tested in accordance with all Applicable Law and Prudent Utility Practice.

ARTICLE 9

OPERATIONAL MATTERS

9.1 Operations and Operational Responsibility. In carrying out the requirements of this Agreement, each Party will comply with the reliability criteria, standards, guidelines and operating procedures of any national electric reliability organization, SERC, Applicable Law and any regional transmission organization (if applicable), and neither Party will be required to take any action in violation of any thereof.

9.1.1 Big Rivers will operate and maintain or cause to be operated and maintained all of the facilities owned by it on the premises of Kenergy or Alcan.

9.1.2 Kenergy will operate and maintain, or cause to be operated and maintained, all of the facilities and equipment owned by it.

9.2 Installation and Maintenance of Interconnection Equipment. Big Rivers has furnished or installed all of the facilities required for the delivery of Energy to the Point of Delivery, as well as the 161 kilovolt transmission lines required between the Point of Delivery and Alcan's electrical substation. Big Rivers shall install and maintain, or shall cause to be installed and maintained, any and all interconnection equipment, metering, or substation equipment, and other equipment, including switching and protective equipment, necessary to enable Kenergy to deliver Energy to Alcan at the Point of Delivery. Big Rivers will keep or cause to be kept, all such equipment in good working order, condition and repair (ordinary wear and tear excepted) such that all such equipment is capable of operating, consistent with Prudent Utility Practice, to the extent necessary to assure sufficient capability to take and use the Electric Services to be delivered by Big Rivers to Kenergy as provided for in this Agreement.

9.3 [Reserved.]

9.4 Curtailment by Big Rivers. If Big Rivers determines in accordance with Prudent Utility Practice, or in compliance with any national electric reliability organization, SERC, Applicable Law and other regulation, any applicable regional transmission organization, or other applicable operating criteria or rules, that a System Emergency has occurred or is imminent, and after suspending or reducing deliveries to Persons purchasing interruptible Energy from Big Rivers, Big Rivers may suspend or reduce the delivery of Energy hereunder and may cease to make available in whole or in part the Electric Services, in each case to the extent caused by, or that Big Rivers determines necessary or prudent under the circumstances to prevent or attempt to prevent, or counter or reduce the effects of, such System Emergency. Any curtailment caused by a System Emergency (or for any other reason) that cannot be avoided after the suspension or reduction of deliveries to Persons purchasing interruptible Energy from Big Rivers will be effected in a non-discriminatory manner consistent with Big Rivers' then-current policies and procedures. Big Rivers shall notify Kenergy and Alcan as to the occurrence or threatened occurrence of any System Emergency or other event that may require curtailment, its cause and its impact on the delivery of Energy or the provision of Electric Services, as soon as practicable. Big Rivers will not be obligated to supply Electric Services to the extent suspended or curtailed as a result of the System Emergency.

9.5 Ownership and Removal of Equipment. Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed, by either of the Parties hereto (or by Alcan) on or in the premises of the other Party (or Alcan) to receive service under this Agreement shall be and remain the property of the Party (or Alcan) owning and installing such equipment, apparatus, devices or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement or any extension thereof, the owner (including, if applicable, Alcan) of any equipment, apparatus, devices or facilities on the property of a Party shall have the right to enter upon the premises of that Party, and shall, within a reasonable time and at the sole expense of the owner, remove such equipment, apparatus, devices or facilities.

ARTICLE 10

COVENANTS

10.1 Surplus Sales.

10.1.1 Big Rivers acknowledges and agrees that Alcan may request Big Rivers and Kenergy sell Energy which is surplus to Alcan's needs by delivering prior written notice to Kenergy and Big Rivers (a) identifying the portion of Base Demand per Hour to be sold and the associated times and duration of the requested sales, and (b) agreeing to curtail its demand per Hour so Alcan's actual demand and the Energy sold pursuant to this Section 10.1 ("Surplus Sales") is not expected to exceed the Base Demand per Hour. Big Rivers shall have no obligation to make Surplus Sales if the portion of Base Demand per Hour Alcan requests to be sold exceeds the Base Demand per Hour or is less than ten MW or not in integral multiples of one MW. For the avoidance of doubt, Surplus Sales shall not include sales of Economic Sales, Undeliverable Energy Sales or Potline Reduction Sales.

10.1.2 Big Rivers shall use reasonable commercial efforts to make Surplus Sales and, to the extent consistent with notices from Alcan to Big Rivers, maximize the Net Proceeds thereof. Big Rivers shall have no obligation to use any efforts to make Surplus Sales if Big Rivers, in its sole discretion exercised in good faith, estimates the Net Proceeds therefrom would be less than \$1.00 per MWh in excess of the sum of the Base Variable Rate, the FAC Factor, the Non-FAC Purchased Power Adjustment Factor ~~Factor~~ and the Environmental Surcharge Factor (each calculated on a per MWh basis). Big Rivers will not have any obligation to Kenergy to market or resell Energy pursuant to this Section 10.1 (a) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy, or (b) if Big Rivers is unable to sell any or all Energy as a result of transmission constraints (whether on or off Big Rivers' transmission system) or other constraints, including constraints imposed by Applicable Law.

10.1.3 For the avoidance of doubt, nothing in this Section 10.1 shall relieve Kenergy of its obligation for the Base Energy Charge or the TIER Adjustment Charge or any other portion of the Monthly Charge pursuant to Article 4.

10.1.4 For any applicable Surplus Sale, (i) Kenergy shall pay Big Rivers any excess of Big Rivers' actual income tax liability relating to such Surplus Sale over the estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale, and (ii) Big Rivers shall pay to Kenergy any excess of Big Rivers' estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale over the actual income tax liability of Big Rivers relating to such Surplus Sale.

10.2 Undeliverable Energy Sales.

10.2.1 If Alcan notifies Big Rivers and Kenergy of the occurrence of (i) any event which results in damage to or destruction of plant or equipment that renders all or a portion of the Sebree Smelter unfit for normal use and limits Alcan's ability to engage in aluminum reduction operations thereat; (ii) Alcan's demand is initially reduced by at least 50 MW per Hour or more as a result thereof; (iii) such limitation is expected to continue for a period of 48 consecutive hours or longer; and (iv) the proximate cause of such casualty is not an intentional misconduct or willful misconduct of Alcan or any of its Affiliates, Big Rivers shall use reasonable commercial efforts to sell an amount of Energy up to the corresponding reduction in Alcan's demand as a result of such event during the continuance of such limitation, subject to the same terms, conditions and limitations as set forth for Surplus Sales in Section 10.1. The sales of Energy described in this Section 10.2 shall be referred to as "Undeliverable Energy Sales." Alcan may provide such notice orally if followed promptly by written notice. Big Rivers shall use reasonable commercial efforts to make such Undeliverable Energy Sales and, to the extent consistent with notices from Alcan to Big Rivers, maximize the Net Proceeds thereof.

(a) For a period of up to six months from the date of the occurrence of such event, all of the Net Proceeds of any such sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge or, if in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Alcan. Upon Alcan providing a certificate representing that the event can not be remedied with reasonable diligence within six

months, Kenergy's rights under this Section 10.2 shall be extended for an additional period up to three months.

(b) Upon expiration of the period of Kenergy's rights under this Section 10.2, Big Rivers shall not have any obligations to sell Energy to a Third Party which otherwise would be available for purchase by Alcan hereunder except as otherwise expressly required pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, or Section 10.3 as Potline Reduction Sales. Undeliverable Energy Sales may not be greater than Base Demand per Hour.

(c) If the circumstances described in clauses (i), (ii), and (iv) of this Section 10.2.1 do not continue for a period of 48 consecutive hours or longer, such sales of Energy will be treated as Surplus Sales under Section 10.1 unless Section 10.3 applies.

10.2.2 For any applicable Undeliverable Energy Sale, (i) Kenergy shall pay to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Undeliverable Energy Sale over the estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale, and (ii) Big Rivers shall pay to Kenergy, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale over the actual income tax liability of Big Rivers relating to such Undeliverable Energy Sale.

10.3 Potline Reduction Sales.

10.3.1 At the request of Kenergy, Big Rivers shall sell 115 MW (plus or minus 10 MW) per Hour to Third Parties (such sales of Energy are referred to as "Potline Reduction Sales"), such amount subject to Section 10.3.2 below, on either a Firm basis or a System Firm basis concurrently with delivery of not less than 30 days' prior notice from Alcan to Kenergy and Big Rivers (which notice Kenergy and Big Rivers shall keep confidential) if (i) Alcan has ceased or will cease all aluminum smelting operations on one and only one of its potlines at the Sebree Smelter (a "Potline Reduction"); (ii) Alcan is reasonably likely to be able to continue aluminum smelting operations with respect to all of its other potlines at the Sebree Smelter as a result of the cessation of aluminum smelting operations on the potline referred to in clause (i); (iii) Alcan in good faith reasonably estimates the duration of such cessation will equal or exceed 12 months; and (iv) no Potline Reduction Sales have been made for a period of twelve consecutive months prior to the date of such notice. Such notice also shall state the requested duration of the sales of Energy and must be accompanied by a certificate of an officer of Alcan Parent certifying as to the matters set forth in clauses (i), (ii), (iii), and (iv) above.

10.3.2 Alcan, Kenergy and Big Rivers shall reasonably cooperate on a schedule for the graduated reduction and, in the case of a potline restoration, the graduated increase in the demand effected pursuant to Section 10.3.1 in such amounts and over a period of time as is mutually satisfactory.

10.3.3 Kenergy may not withdraw its request for Potline Reduction Sales to the extent that Big Rivers has a legally binding agreement with a Third Party for Potline

Reduction Sales (a “Potline Reduction Sales Agreement”), *provided* that Big Rivers acknowledges and agrees that Alcan may at any time increase demand pursuant to Section 10.3.2 and assume responsibility for acquiring Market Energy required during the remainder of the Potline Reduction Sales Agreement.

10.3.4 Big Rivers shall use reasonable commercial efforts to make Potline Reduction Sales and, to the extent consistent with notices from Alcan to Big Rivers, maximize the Net Proceeds thereof. Big Rivers will not have any obligation to market or resell Energy pursuant to this Section 10.3 (i) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy available for sale or (ii) to the extent Big Rivers is unable to make Potline Reduction Sales as a result of transmission constraints (whether on or off Big Rivers’ transmission system) or other constraints, including constraints imposed by Applicable Law.

10.3.5 Kenergy and Big Rivers shall consult with Alcan and agree on the Potline Reduction Sales that will be made on a Firm basis or a System Firm basis and the terms of same. To the extent Kenergy request the Potline Reduction Sales be made on a Firm basis, Kenergy agrees that if during the term of such sale or sales Big Rivers is required to purchase replacement Energy or otherwise make payments to meet such Potline Reduction Sales on a Firm basis, Kenergy will reimburse Big Rivers the full cost of such actions and indemnify Big Rivers for any costs, obligations or liabilities incurred by Big Rivers, including liabilities to Third Parties.

10.3.6 All of the Net Proceeds of any Potline Reduction Sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge from the effective date of the notice pursuant to Section 10.3.1 until the Cut-Off Date or, if such amount is in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Kenergy for payment to Alcan. The “Cut-Off Date” shall mean the earliest to occur of (a) the first day of the 49th Billing Month after the effective date of the notice given under Section 10.3.1, (b) a date specified in a written notice, if any, by Alcan to Kenergy and Big Rivers, (c) the earlier of the date (i) one year after the date Alcan commences smelting operations with respect to one or more pots on the previously suspended potline or (ii) all Potline Reduction Sales Agreements have been terminated or expired after Alcan commences smelting operations with respect to one or more pots on the previously suspended potline. Sales of Energy after the Cut-Off Date shall be Surplus Sales pursuant to Section 10.1 and not Potline Reduction Sales pursuant to this Section 10.3. Kenergy agrees that it shall not be permitted to extend the term of Potline Reduction Sales beyond forty-eight months, *provided* that nothing in this Section 10.3.6 shall preclude Kenergy from providing a new notice under Section 10.3.1 after aluminum smelting operations at the suspended potline have been restored, subject to Section 10.3.1(iv).

10.3.7 For any Potline Reduction Sale, (i) Kenergy shall pay to Big Rivers any excess of Big Rivers’ actual income tax liability relating to such Potline Reduction Sale over the estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale, and (ii) Big Rivers shall pay to Kenergy any excess of Big Rivers’ estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale over the actual income tax liability of Big Rivers relating to such Potline Reduction Sale.

10.3.8 For the avoidance of doubt, (i) Potline Reduction Sales shall not include Surplus Sales, Economic Sales or Undeliverable Energy Sales; (ii) nothing in this Section 10.3 shall be construed to relieve Alcan of its obligation with respect to the Base Monthly Charge, the TIER Adjustment or other components of the Monthly Charge payable pursuant to Article 4; and (iii) nothing in this Agreement precludes Undeliverable Energy Sales under Section 10.2 from becoming Potline Reduction Sales if all conditions of this Section 10.3 are met.

10.4 Alcan Retail Agreement. Kenergy covenants that:

10.4.1 it will at all times fully perform and discharge all of its obligations under the Alcan Retail Agreement, and under any transmission agreement pursuant to which amounts of Energy are delivered directly or indirectly to Kenergy for sale and transmission to Alcan;

10.4.2 it will not resell any Electric Services purchased from Big Rivers under this Agreement to any user other than Alcan, except as expressly permitted in this Agreement or with the prior written consent of Big Rivers, which may be withheld by Big Rivers in its sole discretion, and shall require that any Energy that Kenergy purchases from Big Rivers under this Agreement and resells to Alcan must be consumed by Alcan in connection with the operation of its Sebree Smelter;

10.4.3 it will not take any action or support any action by others that in any manner would impede Kenergy's ability to fulfill its obligations to Big Rivers under this Agreement nor will it amend or modify the Alcan Retail Agreement, including with respect to (i) the rates, terms and conditions for service; (ii) the "Base Monthly Energy," "Supplemental Energy," or "Market Energy" under the Alcan Retail Agreement; (iii) Alcan's payment obligations; or (iv) the term of the Alcan Retail Agreement without the prior written consent of Big Rivers;

10.4.4 it will not waive compliance by Alcan with any of its obligations under the Alcan Retail Agreement, fail to fully enforce the Alcan Retail Agreement against Alcan, or act in any manner that would adversely affect Kenergy's ability to fulfill its obligations under this Agreement;

10.4.5 it will provide to Big Rivers all notices of default received or sent by Kenergy pursuant to the Alcan Retail Agreement;

10.4.6 it will not terminate the Alcan Retail Agreement if the termination would be a breach by Kenergy thereof (including rejection of the agreement in bankruptcy or reorganization proceeding);

10.4.7 it will not terminate the Alcan Retail Agreement for breach by Alcan without providing Big Rivers notice of such Alcan breach and a reasonable opportunity for Big Rivers to cure such Alcan breach, if it should elect, in its sole discretion, to do so. Big Rivers' opportunity to cure will extend, at a minimum, for a period of not less than ten Business Days after the later of (i) the applicable period of time available for a cure by Alcan under the Alcan

Retail Agreement, or (ii) notice of the breach by Alcan is delivered by Kenergy to Big Rivers; and

10.4.8 it will not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Alcan Retail Agreement to any Person without (i) subject to Section 16.2, first obtaining the written consent of Big Rivers, which consent will not be unreasonably withheld or delayed, and (ii) causing the transferee of the Alcan Retail Agreement to assume and agree to perform all of Kenergy's obligations under this Agreement which arise following that assignment or transfer.

10.5 Refund of Income Tax Estimated for Net Proceeds. Big Rivers shall return to Kenergy for the benefit of Alcan any income taxes deducted in calculating the Net Proceeds of a sale of Energy by Big Rivers which Big Rivers ultimately determines are not to be required to be paid due to the application of a net operating loss carry-forward of Big Rivers that existed on the Effective Date and that otherwise would have expired unused.

10.6 Mitigation of Uncontrollable Force. Kenergy covenants that (a) if there is an Uncontrollable Force that prevents Big Rivers from delivering or Kenergy from receiving any Electric Services as required under this Agreement, Kenergy shall use reasonable commercial efforts to obtain Energy and related services from a Third Party Supplier for sale and delivery to Alcan as required under the Alcan Retail Agreement, and (b) Kenergy will take such other actions as are reasonably necessary to avoid a breach or default under the Alcan Retail Agreement that might, if not cured as required by that agreement, result in Alcan's invocation of any of the remedies set forth in Article 14 of the Alcan Retail Agreement.

ARTICLE 11

UNCONTROLLABLE FORCES

11.1 Occurrence of an Uncontrollable Force. No Party will be considered to be in breach or default in the performance of any of its obligations under this Agreement if the failure of performance is due to an Uncontrollable Force, except as otherwise provided in this Article 11. If either Party is unable, in whole or in part, by reason of Uncontrollable Force to carry out its obligations, then the obligations of the Parties, to the extent that they are affected by such Uncontrollable Force, will be suspended during the continuance of any inability so caused, but for no longer period. A Party will not be relieved of liability for failing to perform if such failure is due to causes arising out of its own negligence or willful acts or omissions.

11.2 Mitigation. A Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise due diligence to remove or remedy such inability as promptly as reasonably possible. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

11.3 Notice of Uncontrollable Force. A Party shall notify the other Party at the earliest practicable time following (i) the occurrence of any Uncontrollable Force which renders such Party incapable of performing hereunder or (ii) the time at which such Party has reason to expect that such an Uncontrollable Force is imminent. Kenergy also shall notify Big Rivers if it

receives notice from Alcan that Alcan anticipates that it will be unable to perform its obligations to Kenergy under any contract or agreement that affects Kenergy's performance under this Agreement due to an Uncontrollable Force and Big Rivers is not an additional addressee of such notice.

11.4 Payment Obligations. Notwithstanding anything in this Agreement to the contrary, the occurrence of an Uncontrollable Force shall not relieve Kenergy of its payment obligations under Article 4, including its payment obligations with respect to the Base Energy Charge.

ARTICLE 12

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of Big Rivers. Big Rivers hereby represents and warrants to Kenergy as follows:

12.1.1 Big Rivers is an electric generation and transmission cooperative corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the Term hereof.

12.1.2 The execution, delivery and performance of this Agreement by Big Rivers have been duly and effectively authorized by all requisite corporate action.

12.2 Representations and Warranties of Kenergy. Kenergy hereby represents and warrants to Big Rivers as follows:

12.2.1 Kenergy is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligation hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the Term hereof.

12.2.2 The execution, delivery and performance of this Agreement by Kenergy have been duly and effectively authorized by all requisite corporate action.

ARTICLE 13

ADDITIONAL AGREEMENTS

13.1 Regulatory Proceedings.

13.1.1 KPSC Jurisdiction. Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC over Big Rivers, Kenergy or the rates, terms and conditions of Electric Service to Kenergy.

13.1.2 Notice of Material Filings. Big Rivers shall provide to Kenergy and Alcan a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff, or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

13.2 Audit Rights.

13.2.1 Kenergy will permit Big Rivers to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Kenergy relating to its service to Alcan under the Alcan Retail Agreement, including scheduled usage, meter records and billing records. Kenergy shall retain all documentation applicable to service to Alcan under the Alcan Retail Agreement for a period of three years beyond the date of the service. Nothing in this Section 13.2 shall obligate Kenergy to disclose attorney-client privileged information.

13.2.2 Big Rivers will permit Kenergy and Alcan to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Big Rivers relating to its service to Kenergy under this Agreement, including scheduled deliveries, meter records, billing records, records related to payments made by Alcan to Big Rivers pursuant to the assignment described in Section 5.1, and such other documents related to payment for and determination of the amount of Electric Services supplied by Big Rivers and delivered to Kenergy for resale and delivery to Alcan and the appropriate classification of such Energy. Big Rivers shall retain all documentation applicable to service to Kenergy under this Agreement for a period of three years.

13.3 [Reserved.]

13.4 Patronage Capital.

~~13.4.1—Big Rivers shall amend its bylaws to adopt the provisions set forth in Appendix B and agrees not to amend its Bylaws thereafter in a manner that adversely affects the rights of Kenergy, or in turn of Alcan, to receive patronage capital or other distributions from Big Rivers.~~

~~13.4.2 The provisions of this Section 13.4 shall survive the expiration or earlier termination of this Agreement.~~

13.5 [Reserved.]

13.6 Negotiation of Replacement Agreement. If this Agreement has not been terminated earlier, Big Rivers shall negotiate in good faith with Kenergy and Alcan, no later than January 1, 2023, concerning rates and terms and conditions for new power supply arrangements following the expiration of this Agreement on December 31, 2023.

13.7 Entitlement to Large Industrial Rate. If this Agreement terminates pursuant to a closure of the Sebree Smelter as set forth in Section 7.3.1 and Alcan continues non-smelting operations, Big Rivers acknowledges and agrees that Alcan will be entitled to be served by

Kenergy under the Large Industrial Rate; *provided, however*, the capacity and associated Energy served under the Large Industrial Rate shall not exceed 15 MW.

13.8 Unbundling. Unless required by Applicable Law, Big Rivers will not seek to amend the Large Industrial Rate:

(a) To create unbundled services if unbundling those services alone would result in a more than \$1 million of additional revenue to Big Rivers; and

(b) In a manner which results in categories of OATT costs being charged to Kenergy which Alcan is responsible for under the Alcan Retail Agreement and which are utilized by but not charged to the Non-Smelter Ratepayers.

13.9 Not Exclusive Service Arrangement. Nothing in this Agreement may be construed (i) to limit the ability of Kenergy to purchase capacity, Energy or other services from Persons other than Big Rivers to serve Alcan, or (ii) to amend, waive or otherwise alter the terms of Big Rivers' plan of reorganization, as modified June 1, 1998, or agreements relating thereto regarding the supply obligation of Big Rivers after July 17, 1998, for wholesale power required by Kenergy to provide Electric Service to Alcan or Century.

ARTICLE 14

EVENTS OF DEFAULT; REMEDIES

14.1 Events of Default. Each of the following constitutes an "Event of Default" under this Agreement:

14.1.1 Failure by a Party to make any payment in accordance with this Agreement within three Business Days following the non-performing Party's receipt of written notice of the non-performing Party's default in its payment obligation;

14.1.2 Failure of a Party to perform any material duty imposed on it by this Agreement (other than a failure to make a payment when due) within 30 days following the non-performing Party's receipt of written notice of the non-performing Party's breach of its duty hereunder;

14.1.3 Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Article 16;

14.1.4 The occurrence and continuance of an "Event of Default" under the Alcan Retail Agreement;

14.1.5 Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;

14.1.6 Assignment by a Party for the benefit of its creditors;

14.1.7 Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment; or

14.1.8 Failure, inability or refusal of Kenergy to cure a breach or default by Kenergy under the Alcan Retail Agreement which gives rise to a termination of the Alcan Retail Agreement, or any termination by Kenergy of the Alcan Retail Agreement in breach or default thereof.

14.2 Remedies, General. Except as otherwise provided in this Agreement, following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Unless otherwise provided herein, remedies provided in this Agreement are cumulative, unless specifically designated to be an exclusive remedy and nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein provided that:

14.2.1 UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGER, EMPLOYEES OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS EMPLOYEES OR AGENTS WHETHER IN TORT, CONTRACT OR OTHERWISE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

14.2.2 Neither Party may terminate this Agreement as a result of an "Event of Default" under the Alcan Retail Agreement if the actions or omissions of Kenergy caused such "Event of Default"; *provided*, that either Party may terminate this Agreement if the Alcan Retail Agreement is terminated for any reason.

14.2.3 Unless otherwise provided herein, if a Party is in breach of its obligations under this Agreement but such breach does not constitute, or would not with the passage of time or the giving of notice constitute, an Event of Default and this Agreement does not provide any other remedy ~~therefore~~therefor, if such breach has not been cured by the breaching Party within 60 days after receiving written notice from the non-breaching Party setting forth, in reasonable detail, the nature of such breach, the non-breaching Party may bring a claim for money damages with respect to such breach and exercise its rights under Section 15.2, but will not be entitled to terminate, or seek to terminate, this Agreement, or suspend performance of its obligations and duties hereunder as a result of such breach.

ARTICLE 15

DISPUTE RESOLUTION

15.1 Resolution Meetings. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting among an authorized representative of each of the Parties and, if applicable, Alcan to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section 15.1 shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement.

15.2 Right to Pursue Rights and Remedies. Absent resolution of a dispute pursuant to Section 15.1, the Parties may pursue at any Governmental Authority all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement. Notwithstanding the provisions of this Article 15, each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

ARTICLE 16

GENERAL PROVISIONS/SUCCESSORS AND ASSIGNS

16.1 Binding Nature. This Agreement will inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. No interest in this Agreement may be transferred or assigned by either Party, in whole or in part, by instrument or operation of law, without the prior written consent of the other Party, except as provided in Section 16.4, and except that, subject to satisfaction of the conditions of Section 16.2, assignment may be made by either Party to such Person as acquires all or substantially all the assets of the assigning Party or which merges with or acquires all or substantially all of the equity of such Party. When consent is required, consent may not be unreasonably withheld, conditioned or delayed.

16.2 Limitation on Assignment. In no event may either Party assign this Agreement (including as part of a sale of all or substantially all the assets of the assigning Party or a merger with or purchase of substantially all the equity interests of such Party) (i) to any Person that does not have adequate financial capacity as demonstrated to the reasonable satisfaction of the non-assigning Party or that would otherwise be unable to perform the obligations of the assigning Party pursuant to this Agreement or (ii) on any terms at variance from those set forth in this Agreement except as agreed to in writing by the Parties.

16.3 Duties. No permitted assignment or transfer will change the duties of the Parties, or impair the performance under this Agreement except to the extent set forth in such permitted assignment and approved in writing by the Parties. No Party is released from its obligations under this Agreement pursuant to any assignment, unless such release is granted in writing.

16.4 Financing Lien. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

16.5 Big Rivers Restructuring.

16.5.1 In connection with a Restructuring, Kenergy, Alcan, Century and Big Rivers shall determine a good faith estimate of the cumulative increase or decrease in the TIER Adjustment that such Restructuring would cause in each Fiscal Year over the 24-Billing Month period following the date of the effectiveness of Restructuring (the "Restructuring Amount"). Any change in the Large Industrial Rate approved at the time of or in connection with the Restructuring shall not be considered as an effect of the Restructuring. Nothing in this Agreement, including this Section 16.5, shall limit the ability of Big Rivers to seek a change in or modification of the Large Industrial Rate in connection with the occurrence of a Restructuring.

16.5.2 The Monthly Charge in each month of the 48-month period following the effectiveness of the Restructuring shall be increased or decreased, as applicable, by an amount equal to 1/48th of the product of the Restructuring Amount and the Applicable Percentage; *provided*, that the application of this Section 16.5 shall not result in Kenergy paying less than the sum of the Large Industrial Rate, the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor, ~~and~~ all on a per MWh basis, for a customer with a 98% load factor with respect to Base Monthly Energy in any Fiscal Year. Sample calculations for determining a Restructuring Amount are set forth in Exhibit A.

16.5.3 This Section 16.5 shall not be applicable to any Restructuring undertaken in response to the loss of revenue caused by the termination of the Century Wholesale Agreement.

16.5.4 If Alcan, Century, Kenergy and Big Rivers are not able to determine a mutually agreeable estimate of the Restructuring Amount, then Big Rivers, Kenergy, Alcan or Century may petition to the KPSC to determine the Restructuring Amount.

ARTICLE 17

MISCELLANEOUS

17.1 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

17.2 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue

will lie for the resolution of any—related disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC any matter properly within FERC’s jurisdiction.

17.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

17.4 Amendments.

17.4.1 This Agreement may be amended, revised or modified by, and only by, a written instrument duly executed by both Parties.

17.4.2 The Parties acknowledge and agree that nothing in this Agreement shall limit the right of Big Rivers to file changes to the OATT, or limit the right of any Party to challenge any aspect of the OATT, including the applicable loss factor, the transmission service rates or any other transmission or ancillary service issue presented to FERC.

17.5 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to fulfill its obligations under this Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably exercised. Where notice to the other Party is required to be given herein, and no notice period is specified, reasonable notice shall be given.

17.6 Notices. A notice, consent, approval or other communication under this Agreement must be in writing, addressed to the Person to whom it is to be delivered at such Person’s address shown below and (a) personally delivered (including delivery by a nationally recognized overnight courier service), or (b) transmitted by facsimile, with a duplicate notice sent by a nationally recognized overnight courier service, *provided however*, that (i) a notice under Section 2.3.2(a)(iii) or Section 10.2 may be given by telephone to be followed as soon as reasonably practicable by written notice as described herein and (ii) a notice of Uncontrollable Force shall be given by whatever means is available followed by notice in writing as described herein as soon as reasonably practicable. A notice given to a Person in accordance with this Section 17.6 will be deemed to have been delivered (a) if personally delivered to a Person’s address, on the day of delivery if such day is a Business Day, or otherwise on the next Business Day, or (b) if transmitted by facsimile to a Person’s facsimile number and a correct and complete transmission report is received, or receipt is confirmed by telephone, on the day of transmission if a Business Day, otherwise on the next Business Day; *provided, however*, that such facsimile transmission will be followed on the same day with the sending to such Person of a duplicate notice by a nationally recognized overnight courier to that Person’s address. For the purpose of this Section 17.6, the address of a Party is the address set out below or such other address which

that Party may from time to time deliver by notice to the other Party, in accordance with this Section 17.6:

If to Big Rivers:	Big Rivers Electric Corporation 201 Third Street Henderson, Kentucky 42420 Facsimile: _____ <u>(270) 827-2558</u> Attn: President and CEO
If to Kenergy:	Kenergy Corp. 6402 Old Corydon Road Henderson, Kentucky 42420 Facsimile: _____ Attn: President and CEO

17.7 Severability. If any clause, sentence, paragraph or part of this Agreement should for any reason be finally adjudged by any court of competent jurisdiction to be unenforceable or invalid, such judgment will not affect, impair or invalidate the remainder of this Agreement but will be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which the judgment is rendered, unless the loss or failure of such clause, sentence, paragraph or part of this Agreement materially adversely affects the benefit of the bargain to be received by either or both of the Parties, in which event the Parties shall promptly meet and use their good faith best efforts to renegotiate this Agreement in such a fashion as will restore the relative rights and benefits of both Parties or, absent such renegotiation, the Party that was so materially adversely affected will be entitled, in its discretion, to terminate this Agreement.

17.8 Survival. Each provision of this Agreement providing for payment for Electric Services and any other amounts due hereunder, distribution of patronage capital, assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, indemnification or payment of other liabilities will survive termination of this Agreement to the full extent necessary for their enforcement and the protection of the Party in whose favor they run.

17.9 Merger. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the matters addressed herein and supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement, except as otherwise provided in (a) Section 6.1 and Section 7.2.5 hereof, (b) Amendment to Wholesale Power Agreements, dated as of July 15, 1998, by and between Big Rivers and Green River Electric Corporation, or (c) Amendment to Wholesale Power Agreements, dated as of July 15, 1998, by and between Big Rivers and Henderson Union Electric Cooperative Corp. The Parties agree and acknowledge that the agreements referred to in clauses (b) and (c) shall survive following the effectiveness of this Agreement. The Parties acknowledge that Big Rivers and Alcan disagree, notwithstanding the Unwind Transaction, as to the obligation of Big Rivers, in the absence of a new or amended

contract, to serve Kenergy for the benefit of Alcan when the Existing Alcan Agreement terminates or when ~~the~~ this Agreement terminates.

17.10 Further Assurances. The Parties shall execute such additional documents including a consent to assignment, legal opinions, estoppel letters or similar documents, and shall cause such additional actions to be taken as may be required or, in the judgment of any Party, be necessary or desirable, to effect or evidence the provisions of this Agreement and the transactions contemplated hereby.

17.11 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument and each counterpart will have the same force and effect as if they were one original.

17.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard or care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement other than Alcan.

17.13 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

17.14 No Agency. This Agreement is not intended, and may not be construed to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party will have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or otherwise bind, the other Party.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

BIG RIVERS ELECTRIC CORPORATION

By: _____

Name:

Title:

KENERGY CORP.

By: _____

Name:

Title:

SCHEDULE 4.11(c)
REFERENCE ANNUAL FUEL COSTS PER MWH

<u>Year</u>	<u>Fuel Cost per MWH Sales*</u>
2008	15.68
2009	16.44
2010	16.74
2011	17.23
2012	17.65
2013	18.25
2014	17.82
2015	18.37
2016	18.38
2017	18.74
2018	18.43
2019	19.18
2020	19.04
2021	19.90
2022	19.23
2023	19.74

* Includes cost of Startups

**SCHEDULE 4.13.5
MODEL FAC FACTOR AMOUNTS**

<u>Year</u>	<u>FAC Factor per MWH Sales</u>
2009	5.84
2010	7.05
2011	7.60
2012	7.81
2013	8.31
2014	8.99
2015	9.01
2016	9.41
2017	9.45
2018	9.75
2019	9.64
2020	10.11
2021	10.30
2022	10.39
2023	10.44

**SCHEDULE 6.2.2
LISTING OF OBLIGATIONS TERMINATED PURSUANT TO THE UNWIND
TRANSACTIONS**

RETAIL OBLIGATIONS AND AMENDMENTS

1. Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
2. Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation and Southwire Company
3. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
4. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company

5. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Alcan Aluminum Corporation
6. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Southwire Company

WHOLESALE OBLIGATIONS AND AMENDMENTS

7. Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and LG&E Energy Marketing Inc.
8. Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and LG&E Energy Marketing Inc.
9. Amendment to Wholesale Power Agreements Dated October 12, 1974 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
10. Amendment to Wholesale Power Agreements Dated February 16, 1988 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
11. Agreement of Big Rivers Electric Corporation with Respect to Future Policies and Procedures Regarding Big Rivers' Transmission System (sometimes referred to as the "Wholesale ISO Agreement"), dated as of July 15, 1998, between Big Rivers Electric Corporation, Green River Electric Corporation, Henderson Union Electric Cooperative Corp., Jackson Purchase Electric Cooperative Corporation, and Meade County Rural Electric Cooperative

CERTAIN REORGANIZATION DOCUMENTS

12. Letter Regarding Schedule 5.4(a)(1) Provisions Regarding Restitution Amounts, dated July 2, 1998, from Geo. F. Hobday, Jr. on behalf of Big Rivers, sent to Frank N. King, W. David Denton, David C. Brown, Michael Kurtz, Allison Wade, and Charles Ritz
13. Letter Regarding Restitution Payments, dated July 13, 1998, from Michael Kurtz sent to James M. Miller and Geoff Hobday
14. Letter Regarding Restitution Payments, dated July 14, 1998, from Michael Core, on behalf of Big Rivers, sent to Allan Eyre and John Henderson
15. Letter Regarding Restitution Payments, dated July 15, 1998, from Allan B. Eyre, on behalf of Alcan, and John Henderson, on behalf of NSA and Southwire, sent to Michael Core

SECURITY AND LOCKBOX AGREEMENTS

16. Security and Lockbox Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LG&E Energy Marketing Inc., Kenergy (as successor to Henderson Union), Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
17. Security and Lockbox Agreement, dated as of July 15, 1998, by and among LG&E Marketing Inc., Green River Electric Corporation, and Southwire Company

LOAD MANAGEMENT AGREEMENTS

18. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
19. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Southwire Company, Century Aluminum Company (as successor to Southwire Company), Century Aluminum of Kentucky LLC (as successor to Century Aluminum Company), Hancock Aluminum LLC (as successor to Century Aluminum of Kentucky LLC), and Century Aluminum of Kentucky General Partnership (as successor to Hancock Aluminum LLC and NSA, Ltd.)

ASSURANCES AND GUARANTIES

20. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Alcan Aluminum Corporation, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Alcan Aluminum Corporation
21. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Southwire Company, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Southwire Company
22. Assurances Agreement, dated as of November 30, 2006, between Century Aluminum General Partnership and Big Rivers Electric Corporation
23. First Amendment to Assurances Agreement Dated as of November, 30, 2006, dated as of November __, 2007, by and between Century Aluminum of Kentucky General Partnership and Big Rivers Electric Corporation
24. Guaranty, dated August 1, 2003, from Alcan Corporation to and in favor of the E.ON Parties
25. Guaranty, dated July 15, 1998, of E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Henderson Union)

26. Guaranty, dated July 15, 1998, by E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Green River Electric Corporation)

INDEMNIFICATION AGREEMENTS

27. Indemnification and Assignment Agreement, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
28. Indemnification and Assignment Agreement, dated July 15, 1998, between Green River Electric Corporation and Southwire Company

TIER 3 CONTRACTS AND RELATED DOCUMENTS

29. Agreement for Tier 3 Electric Service (2001-2002), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
30. Agreement for Tier 3 Electric Service (2001-2005), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
31. Agreement for Interruptible Tier 3 Energy, dated as of July 25, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
32. Agreement for Interruptible Tier 3 Energy, dated as of November 5, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
33. Agreement for Interruptible Tier 3 Energy, dated as of September 15, 2003, between Kenergy Corp. and Big Rivers Electric Corporation
34. Agreement for Interruptible Tier 3 Energy, dated as of November 30, 2006, between Kenergy Corp. and Big Rivers Electric Corporation
35. Agreement for Tier 3 Energy (Century), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
36. Agreement for Tier 3 Energy (Alcan), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
37. Consent to the Agreement for Tier 3 Energy (Alcan), dated November ~~___~~29, 2007, by Alcan Primary Products Corporation
38. Consent to the Agreement for Tier 3 Energy (Century), dated November ~~___~~29, 2007, by Century Aluminum of Kentucky General Partnership
39. All other agreements related to the provision of Tier 3 service by or among Big Rivers, Kenergy, the Smelters or any LG&E parties

OTHER AGREEMENTS

40. Assumption and Consent Agreement, dated as of August 1, 2003, among Alcan Primary Products Corporation, WKE Station Two Inc., LG&E Energy Marketing Inc., Western Kentucky Energy Corp. and Kenergy
41. Undertaking of Alcan Corporation, dated August 1, 2003, from Alcan to and in favor of LG&E Energy Marketing Inc., and the Undertaking of Alcan Aluminum Corporation, dated July 15, 1998, in favor of Henderson Union Electric Cooperative Corporation and LG&E Energy Marketing Inc.
42. Special Assignment Agreement, dated as of March 26, 2001, among LG&E Marketing Inc., Southwire Company, Century Aluminum of Kentucky LLC and Century Aluminum Company
43. Consent and Agreement, dated December 23, 2005, among Century Aluminum of Kentucky LLC, Century Aluminum Company, Hancock Aluminum LLC, NSA, Ltd., Century Aluminum of Kentucky General Partnership, Metalsco, Ltd., Skyliner, Inc., Century Kentucky, Inc. and LG&E Energy Marketing Inc.
44. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
45. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
- 46. Joint Use Agreement, dated as of February 8, 2000, between Western Kentucky Energy Corp. and Big Rivers Electric Corporation**

SCHEDULE 6.2.3
LISTING OF CERTAIN DULY AUTHORIZED AND EXECUTED AGREEMENTS

RETAIL AGREEMENTS

1. Retail Electric Service Agreement by and between Kenergy Corp. and Alcan Primary Products Corporation
2. Retail Electric Service Agreement by and between Kenergy Corp. and Century Aluminum General Partnership

WHOLESALE AGREEMENTS

3. Wholesale Electric Service Agreement (Alcan) by and between Big Rivers Electric Corporation and Kenergy Corp.
4. Wholesale Electric Service Agreement (Century) by and between Big Rivers Electric Corporation and Kenergy Corp.

COORDINATION AGREEMENTS

5. Coordination Agreement by and between Big Rivers Electric Corporation and Alcan Primary Products Corporation
6. Coordination Agreement by and between Big Rivers Electric Corporation and Century Aluminum of Kentucky General Partnership

LOCKBOX AGREEMENTS

7. Security and Lockbox Agreement (Alcan) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Alcan Primary Products Corporation
8. Security and Lockbox Agreement (Century) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Century Aluminum of Kentucky General Partnership

GUARANTEES

9. Parent Guarantee by Alcan Corporation in favor of Kenergy Corp., and Big Rivers Electric Corporation
10. Parent Guarantee by Century Aluminum Company in favor of Kenergy Corp., and Big Rivers Electric Corporation

APPENDIX A
Non-FAC Purchased Power Adjustment Factor

- A. Base Monthly Energy Sales to the smelters are subject to a Non-FAC Purchased Power Adjustment (PPA) to recover purchased power costs that the smelters have agreed to pay and are not otherwise included in Big Rivers' Fuel Adjustment Clause (FAC).
- B. Definitions

Definitions have the meanings given to them in the Agreement except as provided below:

“Account” is the specified numbered account as set forth in the Uniform System of Accounts – Electric, promulgated under Bulletin 1767B-1 by the Rural Utilities Service, an agency of the U.S. Department of Agriculture.

“SEPA” is the Southeastern Power Administration, an agency of the U.S. Department of Energy, or any successor agency.

“Wholesale Smelter Agreements” are the Alcan Wholesale Agreement and the Century Wholesale Agreement.

- C. Determination of the PPA

- (1) The monthly amount computed for all wholesale sales to which this PPA is applicable shall be increased or decreased at a rate per kWh in accordance with the following formula:

$$PPA = PP(m)/S(m) - PP(b)/S(b)$$

Where PPA is the PPA Factor for the month; PP(m) is the current Purchased Power Cost for the month; S(m) is the current applicable sales; PP(b) is the Purchased Power Cost for the base period; and S(b) is the sales in the base period. For the initial base period, PP(b)/S(b) (the “Purchased Power Base”) is \$0.00175.

- (2) Purchased Power Costs (PP) shall be the sum of:
 - (a) The total cost of power purchased (including purchases from SEPA) that is expensed by Big Rivers to Account 555 (excluding those costs that are recovered through Big Rivers' FAC and excluding costs expensed to Account Nos. 555.150, 555.151, and 555.152 regarding Big Rivers' cost share of HMP&L's Station Two) including transmission and related costs that are expensed to Account 565;
 - (b) The total amount of any adjustments to Purchased Power Costs attributable to prior months, whether positive or negative; and

- (c) The total cost of amounts credited by Big Rivers to Kenergy with respect to voluntary curtailments under Section 4.13.2 of either Smelter Wholesale Agreement to allow Big Rivers to avoid market priced purchases of power.

Less:

- (c) The total cost of power purchased directly associated with sales (including related system energy losses) by Big Rivers either to non-Member purchasers of power or to Kenergy under either Wholesale Smelter Agreement for resale to either Smelter as energy products other than Base Monthly Energy, assuming SEPA power followed by the lowest cost power, whether generated or purchased, shall be allocated to Applicable Sales.
- (3) Applicable Sales (S) shall be all kilowatt-hours sold at wholesale by Big Rivers (a) to its Members under all electric rate schedules, including the Large Industrial Rate, for resale to Kentucky ratepayers (other than the Smelters), and (b) to Kenergy as Base Monthly Energy as defined in each of the Wholesale Smelter Agreements.
 - (4) The current month (m) shall be the second month preceding the month in which the PPA Factor is billed.

APPENDIX B

Proposed Big Rivers Bylaw Provisions

Section 1. Operation on a Cooperative Basis. The cooperative shall at all times be operated on a non-profit, cooperative basis for the mutual benefit of its patrons. As used in these Bylaws, "patron" shall include members and non-members alike, who have expressly contracted in writing to do all or a portion of their business with the cooperative on a patronage basis on the terms contained in these Bylaws. No interest or dividends shall be paid or payable by the cooperative on any capital furnished by its patrons.

Section 2. Patronage Net Earnings. (a) The patronage net earnings of the cooperative (1) attributable to that portion of the year during which the closing of the Unwind Transaction occurs (the "Unwind Year") that commences on January 1 of such year and ends on the last day of the month preceding the month in which the closing of the Unwind Transaction occurs (the "Initial Unwind Period") and (2) attributable to 2008 (if the Unwind Year shall not be 2008) and all subsequent years preceding the Unwind Year shall be determined and allocated to the patrons in accordance with the bylaws as in effect on January 1, 2008. The patronage net earnings of the cooperative attributable to that portion of the Unwind Year that commences on first day of the month in which the closing of the Unwind Transaction occurs and ends on December 31 of such year (the "Subsequent Unwind Period") (and all subsequent years) shall be determined and allocated to the patrons in accordance with the bylaws currently in effect. The patronage net earnings attributable to each of the Initial Unwind Period and the Subsequent Unwind Period will be determined by closing the books of the cooperative as of the last day of the Initial Unwind Period and by treating each of the Initial Unwind Period and the Subsequent Unwind Period as a short period taxable year; provided, that, the patronage net earnings of the cooperative attributable to the Unwind Transaction will be allocated solely as provided in clause (c)(2) below.

~~(a)~~ (b) The taxable income or loss of the cooperative from business done with or for its patrons on a cooperative basis, as computed for U.S. federal income tax purposes for purposes of calculating regular taxable income tax and alternative minimum taxable income, prior to taking into account any deduction for patronage dividends but after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in patronage earnings from prior taxable years ("patronage net earnings") shall, if positive, be allocated in an amount no less than the greater of such patronage net earnings as computed for regular income tax purposes and such patronage net earnings as computed for alternative minimum tax purposes to the patrons of the cooperative in the manner detailed in clause ~~(b)~~ (c) below and, if negative, be treated in the manner detailed in clause ~~(e)~~ (d) below.

~~(b)~~ (c)(1) As of the end of each taxable year, the amount of the patronage net earnings of the cooperative ~~(other than patronage net earnings derived from~~ except as

provided in clauses (c)(2) and (c)(3) below relating to the Unwind Transaction and Extraordinary Transactions) shall be allocated to the patrons of the cooperative based on the ratio of the patronage net book earnings attributable to each such patron for the year over the patronage net book earnings attributable to all of the patrons for that year provided, however, that for the Subsequent Unwind Period, the allocation shall be made based on the ratio of the patronage net book earnings attributable to each such patron for the Subsequent Unwind Period over the patronage net book earnings attributable to all of the patrons for the Subsequent Unwind Period. For this purpose, the patronage net book earnings attributable to each patron with respect to any year shall be $M_{Rural} + M_{LargeIndustrial} + M_{Smelters}$, where

M_{Rural} = the greater of zero or $((R_{Rural} - A) * K_{Rural})$

$M_{LargeIndustrial}$ = the greater of zero or $((R_{LargeIndustrial} - A) * K_{LargeIndustrial})$;

$M_{Smelters}$ = the greater of zero or $((R_{Smelters} - A) * K_{Smelters})$.

For purposes of the foregoing:

R_{Rural} = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to rural consumers (as determined pursuant to GAAP);

$R_{LargeIndustrial}$ = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to large industrial consumers (as determined pursuant to GAAP);

$R_{Smelters}$ = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to smelter consumers (as determined pursuant to GAAP);

A = the cooperative's system-average cost per kWh for that year (based on the Total Cost of Electric Service, as set forth in the cooperative's RUS Form 12a for the year, and the Sales of Electricity (Grand Total), as set forth in the cooperative's RUS Form 12b for the year, and, hence, determined pursuant to GAAP);

K_{Rural} = the number of kWh purchased by the applicable patron during that year for resale to rural consumers;

$K_{LargeIndustrial}$ = the number of kWh purchased by the applicable patron during that year for resale to large industrial consumers;

$K_{Smelters}$ = the number of kWh purchased by the applicable patron during that year for resale to smelter consumers (if any).

Notwithstanding the foregoing, if the patronage net book earnings attributable to all of the patrons is negative for any year, the allocation of the patronage net earnings for that year shall instead be based on the ratio of (i) the cumulative patronage net earnings of the cooperative allocated to each of the patrons in all prior years subsequent to 1998, which is the year in which Big Rivers' bankruptcy reorganization closed, to (ii) the cumulative patronage net earnings allocated to all of the patrons during such years.

(2) The patronage net earnings of the cooperative attributable to the Unwind Transaction will be allocated amongst the patrons of the cooperative based on the ratio of the historic patronage net book earnings attributable allocations made to each of the

patrons to the historic patronage net book earnings attributable **allocations made** to all of the patrons with respect to the period commencing with January 1, 1999, which is the year subsequent to the year in which Big Rivers' bankruptcy reorganization closed, and terminating on the date of the Unwind Transaction; ~~provided, that if the Unwind Transaction closes on a date that is not the last day in a fiscal year, the amount of patronage net book earnings attributable for such partial fiscal year period shall be equal to a pro-rated value based on the patronage net book earnings for such fiscal year multiplied by a fraction equal to (i) the number of days in such fiscal year up to and including the date of the Unwind Transaction closes divided by (ii) the total number of days in such fiscal year.~~ **last day of the month preceding the month in which the closing of the Unwind Transaction occurs.**

(3) In the event that an Extraordinary Transaction occurs as the result of the sale of generation or transmission assets, the patronage net earnings of the cooperative attributable to such sale of assets (but not in excess of the patronage net earnings for the year of such sale) will be allocated among the patrons of the cooperative based on the ratio of the historic patronage allocations made to each of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) to the historic patronage allocations made to all of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) for the period commencing on the first day of the year during which depreciation allowances were first allowed for federal income tax purposes with respect to the assets sold and terminating on the last day of the year during which such assets were sold. In the event that an Extraordinary Transaction occurs other than as the result of the sale of generation or transmission assets, the patronage net earnings of the cooperative attributable to such Extraordinary Transaction (but not in excess of the patronage net earnings for the year of such Extraordinary Transaction) will be allocated among the patrons of the cooperative based on the ratio of the historic patronage allocations made to each of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) to the historic patronage allocations made to all of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) for the period that most equitably relates to the income or gain arising from the Extraordinary Transaction, taking into account all relevant facts and circumstances.

(ed) If the patronage net earnings of the cooperative for any taxable year is negative, the deficit shall be carried forward and applied as an offset against future positive patronage net earnings (in accordance with clause (ab) above).

(de) If patronage net earnings of the cooperative shall be adjusted (by the IRS on audit or otherwise) for any year, the amount of patronage net earnings allocated to each patron pursuant to this Section 2 for that year shall be automatically adjusted in accordance with this Section 2 to reflect the recomputed patronage net earnings, with each member being notified within a reasonable time thereafter of the amount of the adjustment allocated to the patron's capital account.

Section 3. Nonpatronage Net Earnings. The taxable income or loss of the cooperative from business not done with or for its patrons on a cooperative basis for any taxable year, as computed for U.S. federal income tax purposes ("nonpatronage net earnings"), after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in nonpatronage net earnings from prior taxable years, shall, if positive, be retained by the cooperative as a permanent source of equity and, if negative, shall be carried forward to be applied as an offset against future positive nonpatronage net earnings. If the nonpatronage net earnings of the cooperative shall be adjusted (by the IRS on audit or otherwise) for any year, the calculations made pursuant to this Section 3 for that year shall be automatically adjusted in accordance with this Section 3 to reflect the recomputed nonpatronage net earnings.

Section 4. Recording Record-Keeping. The membership fee paid and the amount of patronage net earnings allocated to each patron shall be credited to a capital account maintained for such patron, with the books and records of the cooperative being set up and kept in such manner that, at the end of each taxable year, the amount of capital allocated and credited to each patron is clearly reflected in an appropriate record to the capital account of each patron (with the cooperative notifying each patron within a reasonable time after the close of the taxable year notify the amount of the patronage net earnings allocated to the patron's account with respect to such taxable year). All such amounts allocated to the capital account of any patron in accordance with this Article VIII shall be in pursuance of a legal obligation to do so. The capital account of each patron shall be assignable only on the books of the cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy of all or a part of such patron's premises served by the cooperative unless the board of directors, acting under policies of general application, shall otherwise determine.

Section 5. Retirement of Patronage Capital. If, at any time prior to the liquidation of the cooperative, the board of directors shall determine that the financial condition of the cooperative will not be impaired thereby, the patrons' capital accounts may be retired in full or in part (except that no distribution shall be made that would result in a violation of any financial covenant of the cooperative). Generally, such retirements of capital shall be made in order of priority according to the year in which the patronage net earnings were allocated. Notwithstanding the foregoing, however, the board of directors shall have the discretion to determine the method of allocation, basis and order of priority of repayment for all amounts furnished as patronage capital.

Upon the liquidation of the cooperative, the assets of the cooperative shall be distributed in the following order: (i) all debts and obligations of the cooperative shall be paid in accordance with lawful priorities; (ii) each patron's capital account balance shall be paid without priority on a pro rata basis until all such capital accounts (as determined subsequent to adjusting such accounts by allocations of patronage net earnings for the year of liquidation) have been reduced to zero and (iii) any remaining assets of the cooperative shall be paid to the current and former patrons of the cooperative based upon the amount of their historic patronage with the cooperative measured by kilowatt-hours purchased from Big Rivers over the life of the cooperative. The life of the cooperative is defined to begin at the date Big Rivers was formed in 1961 and to continue uninterrupted through Big Rivers' bankruptcy reorganization to the date of liquidation.

Section 6. Definitions. For purposes of this Article VIII, the "Unwind Transaction" shall mean the transactions contemplated by that certain Transaction Termination Agreement dated as of March 26, 2007 to which the cooperative is a party, and an "Extraordinary Transaction" shall mean any transaction or event occurring after the completion of the Unwind Transaction and other than in the ordinary course of the business of the cooperative (including without limitation a sale of generation or transmission assets) where the patronage net earnings from such transaction or event are in excess of \$30 million.

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**COMPARISON OF CENTURY WHOLESALE
AGREEMENT**

**WHOLESALE ELECTRIC SERVICE AGREEMENT
(CENTURY)**

Dated as of [_____],

by and between

BIG RIVERS ELECTRIC CORPORATION

and

KENERGY CORP.

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WHOLESALE ELECTRIC SERVICE AGREEMENT (CENTURY)

This WHOLESALE ELECTRIC SERVICE AGREEMENT (CENTURY) (this “Agreement”) is dated as of [_____], and made by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative corporation (“Big Rivers”), and KENERGY CORP., a Kentucky rural electric cooperative corporation (“Kenergy”).

RECITALS

A. Big Rivers is a generation and transmission cooperative and Kenergy is a member of Big Rivers.

B. Kenergy currently supplies and delivers to Century, the owner and operator of an aluminum reduction plant in Hawesville, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation, Kenergy’s predecessor-in-interest, and Southwire Company, Century’s predecessor-in-interest (the “Existing Century Agreement”).

C. Kenergy currently purchases electric energy and related services for resale to Century from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with its affiliates and parent, collectively, “LG&E”), under an Agreement for Electric Service, dated as of July 15, 1998, with Kenergy (the “Kenergy/LG&E Contract”).

D. Kenergy also currently purchases additional electric energy and related services for resale to Century, to serve the energy requirements of Century not provided by LG&E, from third-party energy suppliers, including Big Rivers.

E. The Existing Century Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E, and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

F. Big Rivers, Kenergy, LG&E, Alcan Primary Products Corporation (“Alcan”), and Century have agreed to enter into a series of transactions referred to herein as the New Transaction and the Unwind Transaction, as defined below.

G. In connection with and as a condition to the Unwind Transaction, Big Rivers has agreed to supply, and Kenergy has agreed to purchase, a certain amount of wholesale electric service for resale to Century on the terms and conditions set forth herein, and Kenergy and Century have agreed to enter into a retail electric service agreement, dated as of the date hereof, with obligations corresponding to those set forth in this Agreement (the “Century Retail Agreement”).

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the Parties, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE 1

DEFINITIONS AND RULES OF INTERPRETATION

1.1 Definitions. Capitalized terms when used in this Agreement have the meanings specified herein, including the definitions provided in Article 1, unless stated otherwise or the context requires otherwise.

1.1.1 Accounting Principles: Generally accepted accounting principles consistently applied or, if generally accepted accounting principles in accordance with the uniform system of accounts of an applicable Governmental Authority or RUS are required, the generally accepted accounting principles consistently applied in accordance with such uniform system of accounts, each as in effect from time to time.

1.1.2 Affiliate: With respect to a specified Person, another Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the specified Person. For avoidance of doubt, no Member is an Affiliate of Big Rivers.

1.1.3 Agreement: As defined in the Preamble.

1.1.4 Alcan: As defined in the Recitals.

1.1.5 Alcan Retail Agreement: The retail electric service agreement, dated as of the date hereof, by and between Kenergy and Alcan.

1.1.6 Alcan Wholesale Agreement: The wholesale electric service agreement, dated as of the date hereof, between Big Rivers and Kenergy for the benefit of Alcan.

1.1.7 Ancillary Services: Those services that are necessary to support the transmission of Energy from resources to loads while maintaining reliable operations of Big Rivers' transmission system, as set forth and described in the OATT.

1.1.8 Applicable Law: All laws, statutes, codes, treaties, ordinances, judgments, decrees, injunctions, writs, orders, rules, regulations, interpretations, issuances, enactments, decisions, authorizations, permits or directives of any Governmental Authority having jurisdiction over the matter in question.

1.1.9 Applicable Percentage: The percentage determined in each Fiscal Year that is the quotient of the Base Demand divided by the sum of the Base Demand and the "Base Demand" as defined in and as then in effect under the Alcan Retail Agreement. If the

Alcan Retail Agreement is terminated or no longer in effect for any reason, Alcan's "Base Demand" shall be deemed to be 368 MW for purposes of calculating the Applicable Percentage.

1.1.10 Avoidable Base Charge: The amount in any Billing Month equal to the sum of:

(a) the product of (i) the sum of the Base Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Fixed Energy that was made available by Century to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales;

(b) *plus* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) the amount of Base Variable Energy that was made available by Century to Big Rivers for Surplus Sales, regardless of whether Big Rivers was able to sell such Energy as Surplus Sales; and

(c) *less* the product of (i) the sum of the Base Variable Rate, the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor, and (ii) any Base Fixed Energy or Base Variable Energy made available by Century to Big Rivers for Surplus Sales that was neither metered at the Point of Delivery nor sold by Big Rivers as Surplus Sales.

Sample calculations of the Avoidable Base Charge are set forth in Exhibit A.

1.1.11 Back-Up Energy: For any Hour in a Billing Month, the amount of Energy metered at the Point of Delivery during such Hour, less the sum of (i) the Base Demand per Hour less Base Curtailed Energy in such Hour, and (ii) any Supplemental Energy metered at the Point of Delivery during such Hour; *provided*, that the amount of Back-Up Energy may not be less than zero.

1.1.12 Back-Up Energy Charge: As defined in Section 4.4.

1.1.13 Base Curtailed Energy: For any Hour in a Billing Month, the amount of Energy that is either (a) curtailed by Century pursuant to Section 4.13.2, or (b) sold by Big Rivers to one or more Third Parties pursuant to (i) Section 4.13.3 as Economic Sales, (ii) Section 10.1 as Surplus Sales, (iii) Section 10.2 as Undeliverable Energy Sales, or (iv) Section 10.3 as Potline Reduction Sales.

1.1.14 Base Demand: 482 MW, or such other amount of electric demand agreed in accordance with Section 3.1, integrated over an ~~hour~~ Hour.

1.1.15 Base Energy Charge: As defined in Section 4.2.

1.1.16 Base Fixed Energy: For any Billing Month, the product of (a) the Base Demand, (b) the number of Hours in the Billing Month, and (c) 0.98.

1.1.17 Base Hourly Energy: For any Hour in a Billing Month, the amount of Energy equal to the sum of (a) the Energy metered at the Point of Delivery during such Hour less (i) Supplemental Energy and (ii) "Market Energy" as defined under the Century Retail Agreement that was purchased by Kenergy from Third Party Suppliers for resale to Century, each as metered at the Point of Delivery, if any, and (b) Base Curtailed Energy; *provided*, that for purposes of calculating Base Hourly Energy, the sum of clauses (a) and (b) above during any Hour shall not exceed the Base Demand per Hour.

1.1.18 Base Monthly Energy: The sum of the Base Hourly Energy for all Hours of a Billing Month.

1.1.19 Base Rate: The rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with a 98% load factor, plus \$0.25 per MWh.

1.1.20 Base Variable Energy: For any Billing Month, Base Monthly Energy less Base Fixed Energy, whether positive or negative.

1.1.21 Base Variable Rate: The ~~Base Variable Rate~~rate shall be expressed ~~on-ain~~ dollars per MWh ~~basis and~~, equal to the sum of (i) the "FAC Base" with respect to Big Rivers' Tariff, (ii) the "Environmental Surcharge Base" with respect to Big Rivers' Tariff, and (iii) the "Purchased Power Base" as defined in Appendix A.

1.1.22 Big Rivers: As defined in the Preamble.

1.1.23 Big Rivers' Tariff: Big Rivers' Rates, Rules and Administrative Regulations For Furnishing Electric Service, as filed with and approved by the KPSC.

1.1.24 Billing Month: Each calendar month during the Service Period.

1.1.25 Budget: The annual operating and capital budget approved by Big Rivers' Board of Directors that estimates all revenues and expenditures of Big Rivers for a specified Fiscal Year, as amended and in effect from time to time.

1.1.26 Business Day: Mondays through Fridays of each week except legal holidays established by federal law in the United States of America or state law in the Commonwealth of Kentucky.

1.1.27 Buy-Through Energy: As defined in Section 2.3.2(b).

1.1.28 Buy-Through Energy Charge: As defined in Section 4.3.2.

1.1.29 Century: As defined in the Recitals.

1.1.30 Century Guarantee: As defined in the Century Retail Agreement.

1.1.31 Century Parent: Century Aluminum Company, a Delaware corporation, and a parent corporation to Century.

1.1.32 Century Retail Agreement: As defined in the Recitals.

1.1.33 Cut-Off Date: As defined in Section 10.3.6.

1.1.34 Economic Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to the sum of (a) \$157 million, and (b) such additional amount as Big Rivers may designate on or prior to the consummation of the Unwind Transaction, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. The amount designated by Big Rivers pursuant to clause (b) above may not exceed (i) an amount equal to Big Rivers' unrestricted cash on hand following the consummation of the Unwind Transaction *less* \$125 million, and (ii) zero if Big Rivers shall not have prepaid at least \$200 million of obligations owed to RUS debt as part of the Unwind Transaction. No additional principal amounts will be contributed by Big Rivers to the Economic Reserve after the Effective Date.

1.1.35 Economic Sales: As defined in Section 4.13.3.

1.1.36 Effective Date: As defined in Section 6.1.

1.1.37 Electric Services: Electric services including capacity and associated Energy and Transmission Services provided by Big Rivers to Kenergy pursuant to this Agreement for resale to Century.

1.1.38 Energy: The flow of electricity denominated in kWh or MWh.

1.1.39 Environmental Surcharge: As defined in Section 4.8.3.

1.1.40 Environmental Surcharge Factor: With respect to any Billing Month, a monthly environmental surcharge factor, expressed in dollars per MWh, that is calculated in accordance with the "Monthly Environmental Surcharge Factor" as defined in Big Rivers' Tariff *Environmental Surcharge Rider*.

1.1.41 Environmental Surcharge Rider: The Environmental Surcharge Rider to Big Rivers' Tariff.

1.1.42 Equity Development Credit: As defined in Section 4.10.

1.1.43 Event of Default: As defined in Section 14.1.

1.1.44 Excess TIER Amount: The amount of the TIER Adjustment, if negative, with respect to any Fiscal Year.

1.1.45 Excess Reactive Demand Charge: As defined in Section 4.6.

1.1.46 Existing Century Agreement: As defined in the Recitals.

1.1.47 FAC: The Fuel Adjustment Clause Rider to Big Rivers' Tariff.

1.1.48 FAC Charge: As defined in Section 4.8.1.

1.1.49 FAC Factor: With respect to any Billing Month, the “~~FAC Factor~~” ~~(fuel adjustment factor, expressed on a kWh basis)~~in dollars per MWh, that is calculated in accordance with the FAC in dollars per kWh.

1.1.50 FERC: Federal Energy Regulatory Commission.

1.1.51 Firm: An obligation to supply Energy subject only to the occurrence of an Uncontrollable Force.

1.1.52 Fiscal Year: The fiscal year of Big Rivers.

1.1.53 Governmental Authority: Any international, national, federal, state, territorial, local or other government, or any political subdivision thereof, and any governmental, judicial, public or statutory instrumentality, tribunal, agency, authority, body or entity having legal jurisdiction over the matter or Person in question, including the KPSC; *provided, however* that the RUS is not a Governmental Authority for purposes of this Agreement.

1.1.54 Hawesville Smelter: The aluminum reduction plant owned and operated by Century and located in Hawesville, Kentucky, including any expansions, additions, improvements and replacements thereof or thereto at the existing site.

1.1.55 Hour or Hourly: A clock hour or per clock hour, respectively.

1.1.56 Imputed Interest: As defined in Section 4.7.5(e).

1.1.57 Interruptible Energy: As defined in Section 2.3.2(a).

1.1.58 Interruptible Energy Charge: As defined in Section 4.3.1.

1.1.59 Interruptible Energy Terms: As defined in Section 2.3.2(a)(i).

1.1.60 Kenergy/LG&E Contract: As defined in the Recitals.

1.1.61 KPSC: Kentucky Public Service Commission.

1.1.62 kW: Kilowatt.

1.1.63 kWh: Kilowatt-hour.

1.1.64 Large Industrial Rate: Big Rivers’ Tariff Rate Schedule No. 7 and all applicable rate adjustments thereto but exclusive of (a) the Rebate, (b) the FAC Factor and the Environmental Surcharge Rider, and (c) any roll-in of costs recovered in the ~~regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with for respect to sales to their Non-Smelter Ratepayers~~Regulatory Account. As of the Effective Date, the Large Industrial Rate will consist of separate rate components for demand and Energy consumption. The Large Industrial Rate subsequently may be defined in terms of more than two separate rate components, including, potentially, separate rate components for transmission services. ~~In such event, for purposes of this Agreement the “Large Industrial Rate” shall include~~

~~all such rate components but excluding in all cases (a) the Rebate and (b) the FAC Factor and the Environmental Surcharge Rider.~~ For the avoidance of doubt, the Large Industrial Rate shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.65 LG&E: As defined in the Recitals.

1.1.66 Lockbox Agreement: The Security and Lockbox Agreement to be entered into among Century, Kenergy, Big Rivers and a depository bank prior to the Effective Date with respect to the payment of certain amounts due by Kenergy to Big Rivers hereunder.

1.1.67 Market Energy: As defined in Section 2.3.2(c).

1.1.68 Market Energy Charge: As defined in Section 4.3.3.

1.1.69 Market Reference Rate: For any Hour, a rate equal to the all-inclusive cost, including transmission and related charges on the transmission system of any Third Party (expressed in dollars per MWh), that Big Rivers estimates, in its sole discretion exercised in good faith, that it would have paid to purchase Energy from a Third Party if there had been no curtailment pursuant Section 4.13.2 during such Hour.

1.1.70 Members: The members of Big Rivers. As of the date hereof, the Members of Big Rivers are Jackson Purchase Energy Corporation, Kenergy, and Meade County Rural Electric Cooperative Corporation.

1.1.71 Model: As defined in Section 1.2(o).

1.1.72 Monthly Charge: As defined in Section 4.1.

1.1.73 MW: Megawatt.

1.1.74 MWh: Megawatt-hour.

1.1.75 Net Margins: Net margins as determined by Accounting Principles. For the avoidance of doubt, Net Margins will include all operating and non-operating margins.

1.1.76 Net Proceeds: The proceeds from the sale of Energy by Big Rivers to Third Parties, net of transaction costs, whenever incurred, and taxes, including Big Rivers' estimated income tax liability on such proceeds without regard to any net operating loss carry-forward of Big Rivers existing on the date of the consummation of the Unwind Transaction, unless and to the extent Big Rivers reasonably determines that such net operating loss carry-forward otherwise would have expired unused.

1.1.77 New Facilities: As defined in Section 4.7.5(e).

1.1.78 New Ratepayer: A Non-Smelter Ratepayer which is (i) interconnected directly with Big Rivers' transmission system, and (ii) first receives electric service at a location served by a meter required for service at such location which meter was

installed specifically for new service at such location after the Effective Date. For the avoidance of doubt, Southwire Company is not a New Ratepayer.

1.1.79 New Transaction: The transactions by and between or among one or more of Kenergy, Century, Alcan and Big Rivers related to the supply of Electric Services to Kenergy under this Agreement and “Electric Services” as defined in the Alcan Wholesale Agreement and including the Century Retail Agreement, the Alcan Retail Agreement, coordination agreements, lockbox agreements, and all other related agreements.

1.1.80 Non-FAC Purchased Power Adjustment Charge: As defined in Section 4.8.2.

1.1.81 Non-FAC Purchased Power Adjustment Factor: A rate *(expressed in dollars per MWh and calculated in accordance with Appendix A in dollars per kWh)* for the recovery of purchased power costs that are not otherwise included in the FAC *(expressed in dollars per kWh) that is calculated in accordance with Appendix A.*

1.1.82 Non-Smelter Member Rates: Big Rivers’ tariff rates applicable to sales of electric services to Members for resale to Non-Smelter Ratepayers and all applicable rate adjustments thereto but exclusive of (i) the Rebate and (ii) the FAC Factor and the Environmental Surcharge Rider. For the avoidance of doubt, the Non-Smelter Member Rates shall be determined without regard to the effect of the Surcharge, the Economic Reserve or the Transition Reserve.

1.1.83 Non-Smelter Ratepayers: Retail ratepayers of the Members other than Century and Alcan.

1.1.84 Notice of Interruption: As defined in Section 2.3.2(a)(iii)(1).

1.1.85 OATT: Big Rivers’ Open Access Transmission Tariff as filed with FERC and found by FERC to constitute a reciprocal open access transmission tariff.

1.1.86 Parties: Big Rivers and Kenergy.

1.1.87 Permitted Interruption: As defined in Section 2.3.2(a)(iii).

1.1.88 Person: Any individual, corporation, cooperative, partnership, joint venture, association, joint-stock company, limited partnership, limited liability company, limited liability partnership, trust, unincorporated organization, RUS or Governmental Authority.

1.1.89 Point of Delivery: The existing set of meters at Big Rivers’ Coleman substation or such other point of delivery mutually agreed by the Parties and Century.

1.1.90 Potline Reduction: As defined in Section 10.3.1.

1.1.91 Potline Reduction Sales: As defined in Section 10.3.1.

1.1.92 Potline Reduction Sales Agreement: As defined in Section 10.3.3.

1.1.93 Prime Rate: The then-effective prime commercial lending rate per annum published in the “Money Rates” section of *The Wall Street Journal*. If *The Wall Street Journal* discontinues publication of the prime commercial lending rate, the Parties and Century shall agree on a mutually acceptable alternative source for that rate.

1.1.94 Prudent Utility Practice: 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 which, in the exercise of reasonable judgment in light of the facts known at the time a decision was made, could have been expected to accomplish the desired result at a 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 be any and all acceptable practices, methods, or acts generally accepted.

1.1.95 Rebate: As defined in Section 4.9.

1.1.96 Regulatory Account: The regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers.

1.1.97 ~~1.1.96-Response~~: As defined in Section 2.3.2(a)(ii)(2).

1.1.98 ~~1.1.97-Restructuring~~: The occurrence of any of the following:

(a) the merger, consolidation or other combination of Big Rivers or an Affiliate or a Member with any Person (including acquisition of another utility system) if following such transaction Big Rivers or its successor would have had sales of Energy to all Members or regulated customers on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers’ actual sales of Energy to the Members for such Fiscal Year;

(b) the acquisition of Big Rivers; or

(c) the admission of a new Member if following such admission Big Rivers would have had sales of Energy to all Members on a *pro forma* basis in the prior Fiscal Year in excess of 105% of Big Rivers’ actual sales of Energy to the Members for such Fiscal Year.

1.1.99 ~~1.1.98-Restructuring Amount~~: As defined in Section 16.5.1.

1.1.100 ~~1.1.99-RUS~~: United States Department of Agriculture Rural Utilities Service.

1.1.101 ~~1.1.100-Scheduled Interruptible Energy~~: As defined in Section 2.3.2(a)(ii)(3).

1.1.102 ~~1.1.101-SERC~~: SERC Reliability Corporation, a regional reliability organization.

1.1.103 ~~1.1.102~~ Service Period: As defined in Section 2.1.

1.1.104 ~~1.1.103~~ Smelters: Century and Alcan.

1.1.105 ~~1.1.104~~ Supplemental Energy: As defined in Section 2.3.2.

1.1.106 ~~1.1.105~~ Supplemental Energy Charge: As defined in Section 4.3.

1.1.107 ~~1.1.106~~ Surcharge: As defined in Section 4.11.

1.1.108 ~~1.1.107~~ Surplus Sales: As defined in Section 10.1.1.

1.1.109 ~~1.1.108~~ System Emergency: Any cessation of operation or reduction in the provision or delivery of Electric Services by Big Rivers due in whole or in part to: (a) a disconnection of all or a portion of Big Rivers' system from the transmission grid (other than as a direct result of Big Rivers' gross negligence or willful misconduct), (b) a system emergency on the transmission grid of a Third Party, or (c) the occurrence of a condition or situation where the delivery of Energy to a transmission grid with which Big Rivers is directly interconnected or the making available of generation services or Transmission Services which could cause (i) harm to life or limb or imminent serious threat of harm to life or limb, (ii) material damage to Big Rivers' system or any material component thereof or imminent danger of material damage to property, or (iii) other dangerous occurrences that Big Rivers believes, in the exercise of Prudent Utility Practice, should be prevented or curtailed.

1.1.110 System Firm. An obligation to supply Energy from:

(a) Big Rivers' owned or leased generation facilities,

(b) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), or

(c) Big Rivers' Firm power purchase agreements with a term of two years or more which were not entered into for purpose of serving a specific non-Smelter load.

~~1.1.109~~ ~~System Firm: An obligation to supply Energy from (i) Big Rivers' owned or leased generation facilities, (ii) Big Rivers' contract with the Southeastern Power Authority (Contract No. 89-00-1501-637), and (iii) Big Rivers' Firm power purchase agreements with a term of two years or more which were not entered into for purpose of serving a specific non-Smelter load.~~ in each case subject to the occurrence of an Uncontrollable Force or similar event of force majeure, a System Emergency or Big Rivers' prior satisfaction of the Energy requirements of the Non-Smelter Members, the Smelters and Third Parties under power sales agreements entered into prior to such power sales agreement the making of such obligation to supply Energy.

1.1.111 ~~1.1.110~~ Term: As defined in Section 7.1.

1.1.112 ~~1.1.111~~ Third Party: A Person other than Kenergy, Century, Big Rivers or Alcan.

1.1.113 ~~1.1.112~~ Third Party Supplier(s): As defined in Section 2.3.2(c).

1.1.114 ~~1.1.113~~ TIER: The quotient for a Fiscal Year of (i) Big Rivers' interest expenses plus Net Margins, divided by (ii) Big Rivers' interest expenses; in each case, calculated in accordance with Accounting Principles.

1.1.115 ~~1.1.114~~ TIER Adjustment: As defined in Section 4.7.5.

1.1.116 ~~1.1.115~~ TIER Adjustment Charge: As defined in Section 4.7.1.

1.1.117 ~~1.1.116~~ Transition Reserve: A reserve established by Big Rivers, which may be held by Big Rivers or another Person, in an initial principal amount equal to \$35 million, subject to increases or decreases resulting from earnings or losses thereon or expenditures therefrom. No additional principal amounts will be contributed by Big Rivers to the Transition Reserve after the Effective Date.

1.1.118 ~~1.1.117~~ Transmission Charge: As defined in Section 4.5.

1.1.119 ~~1.1.118~~ Transmission Services: Network transmission services as described in the OATT and Ancillary Services. Transmission Services are currently included in the Large Industrial Rate but may be unbundled.

1.1.120 ~~1.1.119~~ Uncontrollable Force: Any cause beyond the control of the Party unable, in whole or in part, to perform its obligations under this Agreement which, despite exercise of due diligence and foresight, such Party could not reasonably have been expected to avoid and which, despite the exercise of due diligence, it has been unable to overcome. Examples of events that may constitute the basis of an event which constitutes an "Uncontrollable Force" include: acts of God; strikes, slowdowns or labor disputes; acts of the public enemy; wars; blockades; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; storms; floods; washouts; arrests and restraints of any Governmental Authority; civil or military disturbances; explosions, breakage of or accident to machinery, equipment or transmission lines; inability of a Party to obtain necessary materials, supplies or permits due to existing or future rules, regulations, orders, laws or proclamations of Governmental Authorities, civil or military; transmission constraints or System Emergencies; a forced outage of a generating unit or units preventing the physical delivery of Energy to Kenergy for resale to Century; and any other forces which are not reasonably within the control of the Party claiming suspension. "Uncontrollable Forces" do not include an insufficiency of funds or decline in credit ratings or customary, expected or routine maintenance or repair of plant or equipment. Nothing contained herein shall be construed to obligate a Party to prevent or to settle a labor dispute against its will.

1.1.121 ~~1.1.120~~ Undeliverable Energy Sales: As defined in Section 10.2.1.

1.1.122 ~~1.1.121~~ Unwind Transaction: The consummation of the transactions contemplated on date of the "Closing" as defined in and pursuant to the Transaction Termination

Agreement among Big Rivers, LG&E Energy Marketing Inc., and Western Kentucky Energy Corp.

1.2 Rules of Interpretation. Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement will have the meanings specified in this Article 1 unless the context requires otherwise; (b) the singular will include the plural and vice versa; (c) references to “Recitals,” “Articles,” “Sections,” “Exhibits” or “Schedules” are to the recitals, articles, sections, exhibits or schedules of this Agreement, unless otherwise specified; (d) all references to a particular Person in any capacity will be deemed to refer also to such Person’s authorized agents, permitted successors and assigns in such capacity; (e) the words “herein,” “hereof” and “hereunder” will refer to this Agreement as a whole and not to any particular section or subsection hereof; (f) the words “include,” “includes” and “including” will be deemed to be followed by the phrase “without limitation” and will not be construed to mean that the examples given are an exclusive list of the topics covered; (g) references to this Agreement will include a reference to all exhibits and schedules hereto; (h) references to any agreement, document or instrument will be construed at a particular time to refer to such agreement, document or instrument as the same may be amended, modified, supplemented or replaced as of such time; (i) the masculine will include the feminine and neuter and vice versa; (j) references to any tariff, rate, or order of any Governmental Authority will mean such tariff, rate or order, as the same may be amended, modified, supplemented or restated and be in effect from time to time; (k) if any action or obligation is required to be taken or performed on any day which is not a Business Day, such action or obligation must be performed on the next succeeding Business Day; (l) references to an Applicable Law will mean a reference to such Applicable Law as the same may be amended, modified, supplemented or restated and be in effect from time to time; (m) all accounting terms not defined in this Agreement will be construed in accordance with Accounting Principles; (n) all references to a time of day shall be a reference to the prevailing time in Henderson, Kentucky; and (o) the financial and production cost models prepared by Big Rivers, including models filed with the KPSC, in connection with the application for approval of the Unwind Transaction and the New Transaction (the “Model”) have been prepared solely by Big Rivers and shall not be used by the Parties or any Governmental Authority to construe or interpret any provision of this Agreement. The Parties collectively have prepared this Agreement, and none of the provisions hereof will be construed against one Party on the ground that it is the author of this Agreement or any part hereof.

1.3 Calculations and Rounding. In making any mathematical calculation provided for or contemplated by this Agreement, the calculation will be made to six decimal places (rounded up if the numeral in the seventh decimal place is five or higher, and rounded down if the numeral in the seventh decimal place is lower than five).

ARTICLE 2

ELECTRIC SERVICES AND RATES

2.1 Service Period Obligations. In accordance with the terms and conditions of this Agreement, Big Rivers will sell and deliver, and Kenergy will purchase, Electric Services for resale to Century for a period beginning at 12:00:01 A.M. on the day next succeeding the Effective Date and continuing until 12:00:00 midnight on December 31, 2023, unless the Parties’

respective obligations to supply and purchase Electric Services are earlier terminated pursuant to the terms of this Agreement (the “Service Period”).

2.2 Characteristics of Service. Electric service to be supplied by Big Rivers to Kenergy under this Agreement for resale to Century shall be nominally three-phase, sixty cycle at 161,000 volts or as otherwise agreed to by the Parties and Century. The Parties and Century will mutually agree on limits of the regulation of voltage but at no time may such regulation of such limits be inconsistent with standards required by applicable Governmental Authorities or any other organizations that establish reliability and electric operation standards for the region.

2.3 Delivery Obligation. In accordance with this Agreement, during the Service Period, Big Rivers will deliver at the Point of Delivery to Kenergy for resale to Century Base Monthly Energy, Supplemental Energy and Back-Up Energy.

2.3.1 Base Monthly Energy. Kenergy may purchase for resale to Century in each Hour of the Service Period an amount of Energy up to the Base Demand per Hour. For billing purposes, Base Monthly Energy consists of two components: Base Fixed Energy charged at the Base Rate and Base Variable Energy (which may be either a positive or negative amount) charged or credited at the Base Variable Rate.

2.3.2 Supplemental Energy. “Supplemental Energy” shall consist of (i) Interruptible Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(a), (ii) Buy-Through Energy purchased by Kenergy from Big Rivers and, in turn, by Big Rivers from Third Party Suppliers upon the interruption of Interruptible Energy, pursuant to Section 2.3.2(b), and (iii) Market Energy purchased by Kenergy from Big Rivers pursuant to Section 2.3.2(c).

(a) Interruptible Energy. Kenergy may purchase from Big Rivers on a System Firm basis up to 10 MW per Hour of Energy for resale to Century, subject to availability, the scheduling requirements and Big Rivers’ right to interrupt the sale and delivery of such Energy, all as set forth in this Section 2.3.2(a) (“Interruptible Energy”).

(i) Confirmation. Not less than seven days prior to the beginning of each fiscal quarter of the Service Period (or the Effective Date with respect to the initial fiscal quarter of the Service Period), Big Rivers shall provide to Kenergy and Century a confirmation setting forth the price or prices and other terms and conditions (“Interruptible Energy Terms”) under which Interruptible Energy may be available during each Hour of the subject fiscal quarter. If Big Rivers fails to provide a timely confirmation with respect to any fiscal quarter, the Interruptible Energy Terms for the prior fiscal quarter shall remain in effect. Big Rivers and Kenergy shall obtain Century’s consent to each confirmation as a condition to Big Rivers’ obligation to make Interruptible Energy available to Kenergy for scheduling during each fiscal quarter.

(ii) Scheduling of Interruptible Energy. The provision of Interruptible Energy shall be subject to the following requirements:

(1) At the request of Century, Kenergy shall submit to Big Rivers, no later than 3:00 PM on the second Business Day prior to the day of the scheduled delivery (or such shorter period agreed to by Big Rivers), a schedule for up to 10 MW of

Interruptible Energy, in integral multiples of one MW per Hour, for the times and durations specified in the schedule.

(2) Big Rivers shall be under no obligation to accept the schedule submitted by Kenergy or to deliver the Interruptible Energy so scheduled, but shall, upon receipt of such schedule, notify Kenergy and Century by 9:00 AM of the Business Day prior to the day of scheduled delivery of the number of MW, if any, Big Rivers is willing to deliver and the hour and duration when the delivery shall take place (the “Response”).

(3) Subject to Big Rivers’ rights to interrupt in accordance with Section 2.3.2(a)(iii) below, Big Rivers shall sell and deliver the volume of Interruptible Energy at the time and for the duration specified in the Response (the “Scheduled Interruptible Energy”).

(iii) Interruption of Scheduled Interruptible Energy. The sale and delivery of Scheduled Interruptible Energy may be interrupted by Big Rivers at any time (a “Permitted Interruption”) upon the following terms and conditions:

(1) Upon a determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy will not be available on a System Firm basis, Big Rivers may implement a Permitted Interruption of all or any portion of the Scheduled Interruptible Energy by providing a notice of interruption (“Notice of Interruption”) to Kenergy and Century at least 30 minutes in advance of the estimated interruption;

(2) A Notice of Interruption may be made orally but shall be followed by facsimile or other electronic means acceptable to Kenergy and Century; and

(3) Upon an after-the-fact determination by Big Rivers in its sole discretion exercised in good faith that all or any portion of the Scheduled Interruptible Energy was not available on a System Firm basis during a prior hour or hours, and notwithstanding that no Notice of Interruption had been issued, Big Rivers may implement retroactively a Permitted Interruption of Scheduled Interruptible Energy for such prior hour or hours, to the extent that such Scheduled Interruptible Energy was not available on a System Firm Basis.

Upon meeting the conditions required for a Permitted Interruption, Big Rivers shall have no obligation to sell and deliver the amount of Scheduled Interruptible Energy designated to be interrupted in the applicable Notice of Interruption. In connection with a Permitted Interruption, Big Rivers may provide, but shall not be required to provide, an opportunity for Kenergy to acquire Firm Energy, in lieu of the Scheduled Interruptible Energy, for resale to Century pursuant to the terms and conditions of Section 2.3.2(b) below. In the case of a Permitted Interruption that is implemented retroactively, the Energy delivered by Big Rivers shall be deemed to have been delivered as Backup Energy pursuant and subject to Sections 2.3.3 and 4.4.1. Big Rivers shall not be limited in the number of times that it may issue a Notice of Interruption or may implement a Permitted Interruption, or of the amount or duration of any Permitted Interruption.

(iv) Allocation of Permitted Interruptions. If Kenergy has arranged for Scheduled Interruptible Energy during any Hour both to Kenergy under this Agreement for resale to Century and to Kenergy under the Alcan Wholesale Agreement for resale to Alcan, and Big Rivers determines that it will be unable or was unable during any prior Hour or Hours; to supply the full amount of Scheduled Interruptible Energy to Kenergy for both Century and Alcan, then:

(1) Big Rivers may provide a Notice of Interruption and implement a Permitted Interruption to Kenergy with respect to the Scheduled Interruptible Energy for Century or with respect to "Scheduled Interruptible Energy" as defined in the Alcan Retail Agreement, or any combination thereof; and

(2) Big Rivers may retroactively implement Permitted Interruptions for any Hour to Kenergy for Century and Alcan in equal amounts, taking into consideration any Permitted Interruption to Kenergy that had previously been implemented for the same Hour under clause (1) above.

(v) Termination of Interruptions. During any period of Interruption, Big Rivers may notify Kenergy and Century of its willingness to terminate the Interruption and resume the delivery of Scheduled Interruptible Energy at the Interruptible Energy Terms. Upon notification from Big Rivers terminating the Interruption, Kenergy shall purchase from Big Rivers and resell and deliver Scheduled Interruptible Energy to Century at the beginning of the next Hour that starts at least 10 minutes following such notice.

(b) Buy-Through Energy. Upon each Notice of Interruption, Big Rivers may in its sole discretion offer to sell to Kenergy Firm Energy purchased from Third Party Suppliers for resale to Century in lieu of the interrupted Scheduled Interruptible Energy ("Buy-Through Energy") and the estimated price or prices during the specified Hour or Hours of Interruption upon which Big Rivers would supply such Energy. Big Rivers shall provide Kenergy and Century not less than ten minutes from the time Century receives verbal Notice of Interruption to notify Big Rivers and Kenergy whether Century agrees to purchase Buy-Through Energy offered to be supplied by Big Rivers to Kenergy for resale to Century. Upon Century's or Kenergy's acceptance of the Buy-Through Energy, the obligation of Big Rivers to provide the Buy-Through Energy shall become a Firm service commitment. The failure of Century or Kenergy to notify Big Rivers of acceptance of the Buy-Through Energy during the period provided shall constitute a rejection of the Buy-Through Energy, and the Interruption shall thereafter be implemented in accordance with the applicable Notice of Interruption and Big Rivers shall not have any obligation to supply Kenergy Buy-Through Energy for resale to Century during such Interruption.

(c) Market Energy. Big Rivers acknowledges and agrees that Kenergy may acquire Supplemental Energy (other than Interruptible Energy or Buy-Through Energy) from either Big Rivers or one or more suppliers other than Big Rivers ("Third Party Suppliers") for resale to Century ("Market Energy"), upon the request of Century specifying (i) the requested amount and duration of such Energy, and (ii) all requested prices and material terms and conditions. The sale of any Market Energy by Big Rivers shall be at the sole discretion of Big Rivers and shall be such terms and conditions as Big Rivers and Kenergy shall

agree. Nothing in this Agreement shall be construed to limit the ability of Kenergy to purchase Energy or other electric services from Third Party Suppliers to serve Century.

(i) The Parties acknowledge and agree that (A) Kenergy shall request that Big Rivers provide all Transmission Services necessary to transmit Market Energy requested by Century from a point of interconnection on Big Rivers' transmission system to the Point of Delivery promptly following such request, (B) the amount of Market Energy transmitted from a point of interconnection on Big Rivers' system to the Point of Delivery would be reduced by the applicable system loss factor as provided in the OATT, and (C) Big Rivers shall have no liability to Kenergy for denial of Kenergy's duly submitted request for reservation of Transmission Services.

(ii) If Century is unable to receive and consume Market Energy purchased by Kenergy from Big Rivers or a Third Party Supplier because of an Uncontrollable Force, then upon the request of Kenergy, Big Rivers shall use reasonable commercial efforts to sell such Market Energy to other Third Parties for the duration specified by Century's request. Big Rivers shall apply all revenues derived from such resale as a credit to Kenergy, net of any transmission services charges or related charges or other expenses incurred to make such resale.

2.3.3 Back-Up Energy. Big Rivers shall sell and deliver and Kenergy shall purchase Back-Up Energy for resale to Century at the Point of Delivery through purchases of Energy at the prices and on the terms and conditions set forth in Section 4.4.

2.4 [Reserved]

2.5 Title and Risk of Loss. Title to and risk of loss with respect to Energy provided by Big Rivers to Kenergy for resale to Century pursuant to this Agreement will pass from Big Rivers to and rest in Kenergy when the same is made available by Big Rivers at the Point of Delivery. Until title passes, Big Rivers will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby. After title passes to Century, Big Rivers acknowledges and agrees that Century will be deemed in exclusive control of the Energy and will be responsible for any damage or injury caused thereby.

2.6 Performance by Kenergy. Big Rivers acknowledges and agrees that, to the extent Century has a corresponding or related obligation to Kenergy under the Century Retail Agreement, Kenergy's performance of an obligation under this Agreement is subject to and conditioned upon Century's performance of such corresponding or related obligation to Kenergy. Big Rivers acknowledges and agrees that Century may enforce an obligation of Big Rivers under this Agreement which corresponds or relates to an obligation of Kenergy to Century under the Century Retail Agreement.

ARTICLE 3

CHANGES IN DEMAND AND SCHEDULING

3.1 Change In Base Demand. Big Rivers acknowledges and agrees that Century may change the Base Demand for any Fiscal Year only with the written consent of Big Rivers and Kenergy.

3.2 Scheduling. Big Rivers acknowledges and agrees that:

(a) Century shall not be required to schedule Base Monthly Energy, Buy-Through Energy or Back-Up Energy but shall use reasonable commercial efforts to inform Big Rivers promptly of any material change in Century's intended usage; and

(b) In accordance with the OATT, Century shall schedule and arrange with Kenergy and Big Rivers no later than 9:00 A.M. on the Business Day immediately preceding the day or days of delivery pursuant to the Century Retail Agreement, or as otherwise mutually agreed by the Parties, the delivery of Interruptible Energy and Market Energy.

ARTICLE 4

CHARGES AND CREDITS

4.1 Monthly Charge. Kenergy shall pay Big Rivers the following (the "Monthly Charge") for the Electric Services provided or made available under this Agreement:

- 4.1.1 the Base Energy Charge calculated pursuant to Section 4.2,
- 4.1.2 plus the Supplemental Energy Charge calculated pursuant to Section 4.3,
- 4.1.3 plus the Back-Up Energy Charge calculated pursuant to Section 4.4,
- 4.1.4 plus the Transmission Charge pursuant to Section 4.5,
- 4.1.5 plus the Excess Reactive Demand Charge calculated pursuant to Section 4.6,
- 4.1.6 plus the TIER Adjustment Charge calculated pursuant to Section 4.7.1,
- 4.1.7 plus the FAC Charge calculated pursuant to Section 4.8.1,
- 4.1.8 plus the Non-FAC Purchased Power Adjustment Charge calculated pursuant to Section 4.8.2,
- 4.1.9 plus the Environmental Surcharge calculated pursuant to Section 4.8.3,
- 4.1.10 plus or minus the monthly amortization of the Restructuring Amount calculated pursuant to Section 16.5.1,
- 4.1.11 less the Rebate calculated pursuant to Section 4.9,
- 4.1.12 less the Equity Development Credit calculated pursuant to Section 4.10,
- 4.1.13 plus the Surcharge calculated pursuant to Section 4.11,
- 4.1.14 [Reserved]

- 4.1.15 less the credits calculated pursuant to Section 4.13,
- 4.1.16 plus or minus other amounts calculated pursuant to Section 4.14, and
- 4.1.17 plus taxes calculated pursuant to Section 4.15.

4.2 Base Energy Charge. For any Billing Month, the “Base Energy Charge” shall be the sum of:

- (a) the product of Base Fixed Energy and the Base Rate; and
- (b) the product, whether positive or negative, of the Base Variable Energy and the Base Variable Rate.

Sample calculations of the Base Energy Charge at different load factors are set forth in Exhibit A.

4.3 Supplemental Energy Charge. For any Billing Month, the “Supplemental Energy Charge” shall be the sum of the charges, whenever determined, for the Interruptible Energy Charge, the Buy-Through Energy Charge, and the Market Energy Charge as calculated below.

4.3.1 The “Interruptible Energy Charge” shall be the product of (i) the quantity of Interruptible Energy metered at the Point of Delivery during the Billing Month and (ii) the rate or rates for Interruptible Energy with respect to such Billing Month.

4.3.2 The “Buy-Through Energy Charge” shall be the sum of:

(a) the product of (i) the quantity of Buy-Through Energy metered at the Point of Delivery during the Billing Month and (ii) the quotient of (A) the actual rate or rates for such Buy-Through Energy that Big Rivers pays to a Third Party Supplier over (B) 1.00 less the loss factor set forth in the OATT; and

(b) all other charges that Big Rivers may be required to pay in connection with Buy-Through Energy, including (i) any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Buy-Through Energy purchased from a Third Party to a point at which Big Rivers’ transmission system is interconnected with such system, and (ii) any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Buy-Through Energy to Kenergy for resale to Century.

4.3.3 The “Market Energy Charge” shall be the sum of:

(a) the product of (i) the quantity of Market Energy metered at the Point of Delivery during the Billing Month and (ii) the quotient of (A) the actual rate or rates for such Market Energy agreed to between Big Rivers and Kenergy, over (B) 1.00 less the loss factor set forth in the OATT; and

(b) all other charges that Big Rivers may be required to pay to Third Party Suppliers in connection with Market Energy, including (i) any and all separate charges for transmission services and related services, whenever incurred (including financial transmission rights, transmission congestion charges and similar costs or expenses), provided by a Third Party whose transmission system is used to transmit Market Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system and (ii) any amount payable upon termination by reason of default of the supply arrangements between Big Rivers and Third Party Suppliers, net of recoveries by Big Rivers from such suppliers with respect to the supply of Market Energy to Kenergy for resale to Century.

4.4 Back-Up Energy Charge. For any Billing Month, the "Back-Up Energy Charge" shall be the sum of the Hourly charges for Back-Up Energy calculated as follows:

4.4.1 The charge for Back-Up Energy supplied in any Hour shall equal the following:

(a) to the extent the Back-Up Energy was supplied from generating facilities owned or controlled by Big Rivers and located within Big Rivers' transmission control area, the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to the greater of (1) the real time Hourly locational marginal price at Big Rivers' interface with the Midwest Independent System Operator (or such other pricing reference point that shall be mutually agreed upon by the Parties and Big Rivers), and (2) Big Rivers' system lambda; divided by (B) 1.00 minus the loss factor set forth in the OATT;

(b) to the extent the Back-Up Energy was not supplied pursuant to Section 4.4.1(a), the charge shall be the product of (i) the amount of such Back-Up Energy, and (ii) the quotient of (A) a price equal to 110% of the highest Hourly all inclusive cost incurred by Big Rivers to acquire any Energy, including such Back-Up Energy, and the separate cost, if any, whenever determined, of transmission services and related services provided by a Third Party whose transmission system is used to transmit Back-Up Energy purchased from a Third Party to a point at which Big Rivers' transmission system is interconnected with such system and including any imbalance charges or other costs arising from the failure of a Third Party Supplier to deliver Energy that it is obligated to deliver; divided by (B) 1.00 minus the loss factor set forth in the OATT; and

(c) to the extent that the amount of Back-Up Energy required by Kenergy for resale to Century during any hour exceeds the sum of (x) ten MW per Hour, (y) the amount of Back-Up Energy resulting from deemed Interruption of Scheduled Interruptible Energy pursuant to Section 2.3.2(a)(iii), and (z) the amount of Back-Up Energy resulting from the non-delivery of Market Energy purchased by a Third Party Supplier, then the charge for the excess amount of Back-Up Energy shall be the product of (i) the excess amount of Back-Up Energy, and (ii) the greater of (A) \$250 per MWh and (B) the price set forth in Section 4.4.1(b)(ii).

Sample calculations of the Back-Up Energy Charge are set forth in Exhibit A.

4.4.2 If during any Hour Big Rivers provides Back-Up Energy to Kenergy for resale to Century and “Back-Up Energy” (as defined in the Alcan Wholesale Agreement) to Kenergy for resale to Alcan, then the provisions of Section 4.4.1 shall apply to a proportional number of MW of Back-Up Energy for resale to each of Century and Alcan.

4.5 Charge for Transmission Services and Ancillary Services. For any Billing Month, the charge for transmission services and ancillary services (the “Transmission Charge”) shall be the sum of the charges, calculated in accordance with the OATT, for Transmission Services for (a) Base Monthly Energy that are unbundled from the Large Industrial Rate, if any; and (b) Supplemental Energy.

4.6 Excess Reactive Demand Charge. For any Billing Month, the “Excess Reactive Demand Charge”, if any, shall be the product of \$0.1433 and the amount, expressed in kilovars, of the difference, if positive, between:

(a) the maximum metered reactive demand of Century during the Billing Month, and

(b) an amount of kilovars equal to the sum of:

(i) the product of (A) 0.4843, and (B) the maximum hourly demand during a Billing Month, denominated in kilowatts, associated with Base Monthly Energy, Interruptible Energy, Market Energy, “Market Energy” under the Century Retail Agreement that is purchased by Kenergy from Third Party Suppliers for resale to Century, and Back-Up Energy provided by Big Rivers to Kenergy for resale to Century, but less the amount of such Interruptible Energy, Market Energy or Back-Up Energy that was purchased by Big Rivers from Third Parties, and

(ii) 74,005.

4.7 TIER Adjustment Charge.

4.7.1 The “TIER Adjustment Charge” shall be, for any Fiscal Year, the amount that is the product of the Applicable Percentage and the TIER Adjustment if, and only if, such TIER Adjustment is a positive amount; *provided, however*, that in no case will the TIER Adjustment Charge for any Fiscal Year exceed the amount that is the product of the Base Fixed Energy and the maximum additional charge per MWh set forth below for the applicable Fiscal Year:

<u>Fiscal Years</u>	<u>Maximum Additional Charge</u>
2008-2011	\$1.95 per MWh
2012-2014	\$2.95 per MWh
2015-2017	\$3.55 per MWh
2018-2020	\$4.15 per MWh
2021-2023	\$4.75 per MWh

If the TIER Adjustment shall be negative, there will be an Excess TIER Amount and no TIER Adjustment Charge.

4.7.2 Prior to each Fiscal Year, Big Rivers shall estimate both the TIER Adjustment and, if the TIER Adjustment is positive, the TIER Adjustment Charge based on the Budget for such Fiscal Year. Big Rivers shall collect such estimated amount from Kenergy in equal monthly installments as part of the Monthly Charge for each Billing Month during the applicable Fiscal Year.

4.7.3 Within 45 days following the end of the first, second and third fiscal quarters of each Fiscal Year beginning with the first fiscal quarter after the first anniversary of this Agreement, Big Rivers shall again estimate the TIER Adjustment and the corresponding amount of the TIER Adjustment Charge based on a comparison of the Budget and year-to-date results of operations, and shall calculate a modified amount to be collected from, or refunded as a credit to, the Monthly Charge to Kenergy with respect to service to Century during the remaining portion of the Fiscal Year, including any amounts necessary to address any estimated under- or over-collection of the TIER Adjustment Charge from Kenergy with respect to service to Century as compared to the Budget during the remainder of the Fiscal Year. Big Rivers shall collect or credit such modified amount from Kenergy pursuant to this Agreement in equal monthly installments as part of the Monthly Charge for the remaining Billing Months of the subject Fiscal Year.

4.7.4 As soon as reasonably practicable but no later than 120 days after the end of each Fiscal Year, Big Rivers shall calculate the TIER Adjustment and TIER Adjustment Charge for such Fiscal Year. The TIER Adjustment Charge for such Fiscal Year shall be compared to the aggregate amounts paid by Kenergy in respect of the estimated TIER Adjustment Charge for such Fiscal Year, and the difference between such amounts shall be included as a charge or credit, as applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year.

4.7.5 The "TIER Adjustment" shall be the amount of incremental revenue, whether positive or negative, calculated with respect to each Fiscal Year after determination of Net Margins for such Fiscal Year (excluding amounts payable by Kenergy with respect to or relating to the revenue that results from the TIER Adjustment Charge and the "TIER Adjustment Charge" as defined in the Alcan Wholesale Agreement), that is necessary for Big Rivers to receive in order to achieve a TIER of 1.24 for such Fiscal Year; *provided, however*, that if the Service Period commences or terminates on a date other than the first or last day of a Fiscal Year and to give effect to this Section 4.7.5, the TIER Adjustment will be calculated on an Hourly basis only with respect to the partial period of the first, second or final Fiscal Year of the Service Period, as applicable. The determination of the TIER Adjustment shall be subject to the following:

(a) It shall be assumed that: Big Rivers shall have generated additional revenue from service to the Members for resale to the Non-Smelter Ratepayers as if Big Rivers had increased the Non-Smelter Member Rates by a weighted average of 2.00% in 2010, another 2.50% in 2018 and another 4.00% in 2021 if and to the extent Big Rivers had not prior to or during the year of the calculation increased the Non-Smelter Member Rates by at least

such amounts. The revenues from any roll-in of the costs associated with costs recovered under the FAC—~~or~~, the Environmental Surcharge Rider or the Regulatory Account that ~~is~~are incorporated into base rates comprising a portion of the Non-Smelter Member Rates will not constitute an increase in the Non-Smelter Member Rates for purposes of this clause (a), and the revenues attributable to any such roll-in will be excluded in calculating the percentage of any increases in the Non-Smelter Member Rates. The expiration or termination of Big Rivers' Member Discount Adjustment Rider shall be deemed to be an increase in the Non-Smelter Member Rates for purposes of this clause (a), without regard to whether such expiration or termination occurs prior to, on or after the Effective Date.

(b) It shall be assumed that: If a Member provides electric service to a New Ratepayer with a Firm demand in excess of 15 MW, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the greater of: (i) the amount paid for such service and (ii) an amount calculated for the same period equal to (A) a rate, expressed in dollars per MWh, resulting from the application of the Large Industrial Rate to a load with the New Ratepayer's load factor, plus \$0.25 per MWh, *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis), *plus* (C) the Surcharge (the Surcharge being calculated on an amount per MWh based on Base Fixed Energy for such Fiscal Year) set forth in Section 4.11, *plus* (D) amounts corresponding to the amount per MWh paid by Kenergy during the same period for the TIER Adjustment Charge. If a Member provides electric service to a New Ratepayer with a Firm demand of 15 MW or less, such Member shall have paid to Big Rivers for wholesale Energy purchased and resold to the New Ratepayer at a price equal to the sum of: (i) the Large Industrial Rate, and (ii) the sum of the FAC Factor, the Environmental Surcharge Factor, and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis). For purpose of this clause (b), the revenues produced by any surcharge with respect to a New Ratepayer similar to the Surcharge or the "Surcharge" under the Alcan Retail Agreement will be assumed to accrue solely to the benefit of the Non-Smelter Ratepayers except to the extent such surcharge is paid by or imputed to a New Ratepayer pursuant to subclause (A) of this clause (b). The assumptions contained in this clause (b) shall not apply with respect to a New Ratepayer that first interconnects with Big Rivers' transmission system during the last three Fiscal Years of the Service Period or following notice of termination of this Agreement or the Alcan Retail Agreement.

(c) It shall be assumed that: Big Rivers' interest expense shall have been reduced by the product of (i) Big Rivers' average effective interest rate for borrowed money for the prior Fiscal Year, and (ii) the aggregate amount of any patronage capital retired by Big Rivers to its Members during the Service Period (other than any distribution from the Economic Reserve or the Transition Reserve or relating to the Surcharge or the "Surcharge" under the Alcan Wholesale Agreement), from and after the date of such retirement.

(d) It shall be assumed that: Interest on construction work-in-progress relating to the construction of new electric generating facilities or transmission facilities shall have been capitalized by Big Rivers if it has the right to elect to do so or it is obligated to capitalize such interest under Accounting Principles unless a Governmental Authority has approved the inclusion of such interest expenses in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such interest expenses.

(e) If Big Rivers acquires or constructs non-peaking electric generating facilities alone or with others ("New Facilities"), Big Rivers' interest expenses shall not include the interest imputed on the debt relating to the New Facilities ("Imputed Interest"); *provided, however*, that if a Governmental Authority has approved the inclusion of such generating facilities in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge to provide for the recovery of the costs of such New Facilities, then actual interest expense with respect to such New Facilities shall be included in the TIER calculation to the extent recovery is permitted; *provided, further*, that this clause (e) may not cause the TIER Adjustment to become negative. For purposes of determining Imputed Interest, it shall be assumed that the New Facilities were financed 80% with debt and 20% with equity. Imputed Interest shall equal the product of (i) the weighted average interest rate on Big Rivers' debt for the Fiscal Year, and (ii) the amount of debt equal to 80% of the capital invested in the New Facilities.

(f) It shall be assumed that: The Economic Reserve and the Transition Reserve shall not generate any revenue or tax liability and the application of funds from the Economic Reserve or the Transition Reserve shall not result in any change in the Net Margins of Big Rivers.

(g) It shall be assumed that: Big Rivers shall have made no payment for damages or indemnification to or for the benefit of a Smelter with respect to the provision of Electric Services or "Electric Services" as defined in the Alcan Wholesale Agreement.

(h) It shall be assumed that: Big Rivers shall have paid no criminal penalties with respect to its acts or omissions other than criminal penalties that a Governmental Authority has approved the inclusion of in Big Rivers' revenue requirements for rate-making purposes or otherwise approved a surcharge for collecting such penalties.

(i) It shall be assumed that: Big Rivers shall have received no proceeds from the sale of Energy to the wholesale market pursuant to Section 4.13.3 or the corresponding section of the Alcan Wholesale Agreement.

(j) It shall be assumed that: Big Rivers shall have incurred no expenses that are impermissible for inclusion in rates of electric generation and transmission cooperative utilities subject to the jurisdiction of the KPSC for rate-making purposes (currently including advertising expenses, branding expenses, charitable contributions and lobbying expenses) or specifically disallowed for rate making purposes by a Governmental Authority; *provided, however*, that denial by a Governmental Authority of expense recovery through the FAC or the Environmental Surcharge Rider shall not constitute an expense that is impermissible for inclusion in rates if the nature of such expense is recoverable in base rates.

(k) It shall be assumed that: There are no revenues and expenses associated with non-regulated businesses of Big Rivers.

(l) It shall be assumed that: No interest is paid pursuant either to Section 5.3 or Section 5.4 or pursuant to the corresponding sections of the Alcan Wholesale Agreement.

(m) It shall be assumed that: No amounts have been or are payable with respect to Excess Reactive Demand Charges or with respect to “Excess Reactive Demand Charges” under the Alcan Wholesale Agreement.

(n) It shall be assumed that: No administrative fee shall have been received by Big Rivers as a result of any Surplus Sales, Undeliverable Energy Sales or Potline Reduction Sales or sales of Energy pursuant to the corresponding sections of the Alcan Wholesale Agreement.

(o) Additional costs related to a change in Big Rivers’ depreciation rates may not be included in the calculation of the TIER Adjustment unless such change has been approved, consented to or accepted by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by the RUS or any other Governmental Authority having jurisdiction over such change, if any.

(p) It shall be assumed that: The amortization of any Restructuring Amount is zero.

4.7.6 Any proceeds received or transaction costs prepaid by Big Rivers as part of or in connection with the consummation of the Unwind Transaction shall be disregarded for purposes of computing the TIER Adjustment Charge for the Fiscal Year in which the Unwind Transaction occurs.

4.8 Adjustable Charges.

4.8.1 The “FAC Charge” shall be the product of the FAC Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.2 The “Non-FAC Purchased Power Adjustment Charge” shall be the product of the Non-FAC Purchased Power Adjustment Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.8.3 The “Environmental Surcharge” shall be the product of the Monthly Environmental Surcharge Factor (expressed in dollars per MWh) and Base Monthly Energy.

4.9 Rebate. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers elects to implement a rebate to its Members in respect thereof, then no later than the first day of the fifth month of the following Fiscal Year, Big Rivers will credit to Kenergy for further credit to Century an amount (the “Rebate”) equal to the product of:

- (i) the Excess TIER Amount, and
- (ii) a fraction:

(1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and

(2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Alcan Retail Agreement (without regard to whether the Alcan Retail Agreement is then in effect).

4.10 Equity Development Credit. If there is an Excess TIER Amount in any Fiscal Year and Big Rivers does not elect to implement a rebate to its Members, then no later than the first day of the fifth month of the following Fiscal Year, Big Rivers will credit against the next Monthly Charge an amount (the "Equity Development Credit") equal to the product of:

(i) the Excess TIER Amount, and

(ii) a fraction:

(1) the numerator of which is the Base Fixed Energy for such Fiscal Year, and

(2) the denominator of which is the sum during the applicable Fiscal Year of (A) Big Rivers' aggregate sales of Energy to Members for resale to Non-Smelter Ratepayers, (B) the Base Fixed Energy, and (C) the aggregate amount of "Base Fixed Energy" as defined in the Alcan Retail Agreement (without regard to whether the Alcan Retail Agreement is then in effect).

Notwithstanding the above, the Equity Development Credit for any Fiscal Year may not exceed an amount which would cause the charge for Base Fixed Energy (including Energy curtailed pursuant to Section 4.13.2 or sold to Third Parties pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales) less the Equity Development Credit for such Fiscal Year on a per MWh basis to be less than (A) the Large Industrial Rate for a customer with a 98% load factor *plus* (B) the sum of the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor (each calculated on a per MWh basis).

4.11 Surcharge. In addition to any other amounts payable under this Agreement, and ~~notwithstanding~~ **notwithstanding** anything in this Agreement to the contrary, Kenergy shall pay a surcharge (the "Surcharge") equal to the sum of the following:

(a) As applicable:

(i) \$241,472 each Billing Month from the Effective Date through and including December, 2011;

(ii) \$344,960 each Billing Month from January, 2012 through and including December, 2016;

(iii) \$481,188 each Billing Month from January, 2017 through the expiration of the stated Term of this Agreement; *plus*

(b) For any Billing Month, the product of (i) Base Fixed Energy and (ii) \$0.60 per MWh; *plus*

(c) For any Billing Month, the product of (i) Base Fixed Energy and (ii) the number of cents per MW per Hour (which number shall not exceed 60 or be less than zero) that Big Rivers' projected annual average costs per MWh for fuel consumed by Big Rivers in its coal-fired generation as set forth in its Budget are greater than the amounts set forth on Schedule 4.11(c), in each case, for that Fiscal Year relating to such Billing Month. Big Rivers shall within 45 days following the end of each fiscal quarter compute its actual costs per MWh for fuel consumed by Big Rivers' coal-fired generation in each Billing Month for such fiscal quarter and shall calculate (on a fiscal-year-to-date basis in a manner consistent with this Section 4.11(c)) an additional amount to be paid by or credited to Kenergy based on such actual costs incurred for fuel consumed compared to the amounts set forth in the Budget for such Billing Months; *provided*, any additional amounts to be paid by or credited to Kenergy shall be applied to amounts due for the remainder of the Fiscal Year under this Section 4.11(c). Within 120 days of the end of each Fiscal Year, an additional amount shall be credited to Kenergy if necessary so that the total amounts paid pursuant to this Section 4.11(c) for such Fiscal Year shall not exceed an amount equal to the product of Base Fixed Energy for such Fiscal Year and 60 cents per MW per Hour; such amount shall be included as a credit, if applicable, in the Monthly Charges for the fourth Billing Month of the next Fiscal Year; *minus*

(d) For each ~~of the first 96 Billing Month, the product of \$200,000 and the Applicable Percentage.~~ Months, \$113,412.

The obligation of Kenergy to pay the Surcharge will cease to accrue upon the termination of this Agreement. Sample calculations of the Surcharge under Section 4.11(c) are set forth in Exhibit A.

4.12 [Reserved]

4.13 Credits.

4.13.1 Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales. For any Billing Month, Big Rivers shall credit Kenergy (a) the Net Proceeds of any Surplus Sales pursuant to Section 10.1 to the extent of the Avoidable Base Charge; and (b) the amount of Net Proceeds of any Undeliverable Energy Sales or Potline Reductions Sales to which Kenergy is entitled pursuant to Section 10.2 or Section 10.3, respectively, less \$0.25 per MWh as Big Rivers' administrative fee in each case. Sample calculations of the Net Proceeds from Surplus Sales, Undeliverable Energy Sales and Potline Reduction Sales that would be credited to Kenergy are set forth in Exhibit A.

4.13.2 Curtailment of Purchased Power. For any Billing Month, Big Rivers will credit Kenergy for any Hour during such Billing Month an amount equal to the product of (a) the Market Reference Rate during such Hour, and (b) the amount of Base Demand per Hour curtailed, if any, during such Hour in an amount and for a duration mutually agreed among Big Rivers, Kenergy and Century pursuant to this Section 4.13.2 and the corresponding section of the Alcan Wholesale Agreement. If both Century and Alcan agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.2 of the Century Retail Agreement and the corresponding section of the Alcan Retail Agreement, Century and Alcan must notify Big Rivers and Kenergy as to whose curtailment shall take precedence. If Big Rivers is not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Big Rivers first shall take precedence. Sample calculations of credit that would be due to Kenergy for curtailment of purchased power are set forth in Exhibit A.

4.13.3 Economic Sales. For any Billing Month, Big Rivers will credit Kenergy 75% of the Net Proceeds that Big Rivers receives in respect of the curtailment of the delivery of Base Demand per Hour in an amount and for a duration mutually agreed among Big Rivers, Kenergy and Century if Big Rivers sells such curtailed Base Demand per Hour to the wholesale Energy market ("Economic Sales"); *provided*, that unless otherwise agreed among Big Rivers, Kenergy and Century, (a) the amount of Base Demand per Hour curtailed by Kenergy on behalf of Century may not exceed 100 MW per Hour, (b) the number of curtailments each year shall be limited to twelve, and (c) each curtailment may not last longer than four Hours, and *provided further*, that Big Rivers shall have no obligation to make Economic Sales until after Big Rivers first sells all of its own surplus Energy to the wholesale Energy market. If Kenergy on behalf of both Century and Alcan agree to the curtailment of the delivery of Base Demand per Hour pursuant to this Section 4.13.3 and the corresponding section of the Alcan Wholesale Agreement, Century and Alcan must notify Big Rivers and Kenergy as to whose curtailment shall take precedence. If Big Rivers is not notified as to whose curtailment shall take precedence, the Smelter whose curtailment is largest shall take precedence, and if the amount of curtailment by each Smelter is the same, then the Smelter whose curtailment notice was received by Big Rivers first shall take precedence. Sample calculations of the portion of the Net Proceeds from Economic Sales that would be credited to Kenergy are set forth in Exhibit A.

4.14 Other Amounts. For any Billing Month, any amounts payable pursuant to Section 10.1.4, ~~10.2.3~~10.2.2 or 10.3.7 shall be added to or subtracted as applicable from the calculation of the Monthly Charge.

4.15 Taxes. No state or local sales, excise, gross receipts or other taxes are included in the charges and credits set forth in this Article 4. Kenergy shall pay or cause to be paid any such taxes which are now or hereafter become applicable to the sale of Electric Services to Kenergy under this Agreement.

ARTICLE 5

BILLING

5.1 Monthly Invoice. Big Rivers shall bill Kenergy on or before the ~~fifth~~tenth Business Day of each month for the Monthly Charge as calculated pursuant to Article 4 based on the sale of Electric Services during the most recently ended Billing Month plus any other amounts then due and owing pursuant to this Agreement. Kenergy shall pay or cause to be paid to Big Rivers the Monthly Charge and any other amounts due and owing in immediately available funds to an account designated in the Lockbox Agreement on the Business Day following the 24th day of the month following the Billing Month. For the convenience of the Parties, and to facilitate satisfaction of Kenergy's obligation to Big Rivers, Kenergy has assigned to Big Rivers its right to receive payment from Century under the Century Retail Agreement and its rights to collect and enforce collection of such amounts due from Century other than with respect to the "Retail Fee" as defined in the Century Retail Agreement pursuant to the Lockbox Agreement. Big Rivers hereby releases Kenergy from further liability under this Agreement for amounts subject to such assignment to Big Rivers, *provided* that such release does not relieve Kenergy of its other liabilities or responsibilities under this Agreement. Kenergy shall cooperate with and assist Big Rivers with respect to any collections of amounts due from Century to Kenergy which are assigned to Big Rivers; *provided*, that Big Rivers will reimburse Kenergy for any reasonable expenses Kenergy incurs in providing such cooperation or assistance.

5.2 Right to Discontinue Service. If Kenergy (or Century on behalf of Kenergy) fails to pay any monthly invoice rendered by Big Rivers within the time prescribed in Section 5.1, Big Rivers may discontinue delivery of any or all Electric Services hereunder upon 120 Hours prior written notice to Kenergy and Century of its intention to do so. Big Rivers' discontinuance of such service for non-payment will not in any way affect, diminish or limit the obligations of Kenergy (or Century on behalf of Kenergy) to make all payments required under this Agreement or the Century Retail Agreement, as and when due.

5.3 Default Interest. If any monthly invoice rendered by Big Rivers is not paid on the due date, interest will accrue and become payable by Kenergy to Big Rivers on all unpaid amounts at a rate of four percentage points over the Prime Rate commencing on the first day after the due date.

5.4 Payments Under Protest. If any portion of any monthly statement is disputed by Kenergy (or Century), the disputed amount must be paid, under protest, when due. If the disputed amount of the payment is found to be incorrect, Big Rivers shall promptly cause to be refunded to Kenergy (or to Century on behalf of Kenergy, as applicable) the amount that was not then due and payable, together with interest at the Prime Rate commencing on the first day after the date of payment and accruing on each day thereafter until the date the refund is made.

5.5 [Reserved.]

5.6 No Waiver. No payment made by Kenergy (or Century on Kenergy's behalf) pursuant to this Article 5 will constitute a waiver of any right of Kenergy (or Century) to contest the correctness of any charge or credit.

5.7 No Payment. In no case shall Big Rivers be obligated to make a payment to Kenergy in connection with the application of a credit to Kenergy's Monthly Charges except to the extent otherwise expressly provided in Section 10.2.1(a) with respect to Undeliverable Energy Sales.

ARTICLE 6

EFFECTIVE DATE AND CONDITIONS

6.1 Effective Date. The obligations of the Parties under Article 2, Article 3, Article 4, Article 5, Section 7.3, Article 8, Article 9, Article 10, Article 11, Article 12, Article 13, Article 14 and Section 16.5 shall not commence until the Effective Date. The "Effective Date" will occur on the first date each of the conditions set forth in Section 6.2 has been satisfied in full or waived in writing by the Party in whose favor such condition exists (to the extent one or more conditions is subject to being waived).

6.2 Conditions to Occurrence of Effective Date. The following shall be conditions to the occurrence of the Effective Date:

6.2.1 Each of the representations and warranties of the Parties contained in this Agreement and the representations and warranties of Kenergy and Century in the Century Retail Agreement will be true and correct as of the date hereof and the Effective Date (as though such representations and warranties were made at and as of the date hereof and the Effective Date), and each of the Parties shall have received a certificate to such effect from the other Party with respect to the other Party's representations and warranties in this Agreement and Big Rivers shall have received a certificate to such effect from Kenergy and Century in respect of their respective representations and warranties in the Century Retail Agreement.

6.2.2 The Unwind Transaction will have been consummated, including the termination of the agreements set forth on Schedule 6.2.2.

6.2.3 Each of the documents and agreements set forth in Schedule 6.2.3 will have been duly authorized, executed and delivered by the parties thereto, and all conditions precedent to the effectiveness of such agreements will have been satisfied or waived, and shall, if amended after the date hereof and prior to the Effective Date, be acceptable to Century.

6.2.4 [Reserved]

6.2.5 The Century Guarantee will have been duly authorized, executed and delivered by Century Parent and be in full force and effect.

6.2.6 Release documents releasing the liabilities and obligations under the documents listed on Schedule 6.2.2 will have been duly authorized, executed and delivered by Big Rivers, Kenergy, Alcan, LG&E and Century, as applicable.

6.2.7 Each Member will have authorized, executed and delivered an amendment to its wholesale power contract with Big Rivers relating to the supply of electric

service to the Member for its requirements (other than in the case of Kenergy, the requirements of Century and Alcan) to extend the term of such contract until a date satisfactory to Big Rivers.

6.2.8 No authorization or approval or other action by, and no notice to or filing or registration with, or license or permit from any Person, including any Governmental Authority, will be necessary prior to start of the Service Period, other than (i) as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time after the Effective Date and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Big Rivers has no reason to believe will not be timely obtained and in each case which do not prevent provision of Electric Services as described herein, and (ii) with respect to the approval of the KPSC or FERC, on the Effective Date, such approvals will have been duly given or issued, received and will be in full force and effect and unappealable, and all conditions therein will have been satisfied to the extent required to be satisfied by Kenergy or Big Rivers on or prior to the Effective Date.

6.2.9 The Century Retail Agreement, the Alcan Wholesale Agreement and the Alcan Retail Agreement will have been duly authorized, executed and delivered by the parties thereto and be in full force and effect and all conditions precedent to the effectiveness will have been satisfied or waived other than conditions within the control of Kenergy or conditions that automatically will become effective simultaneously with the Effective Date or the Unwind Transaction.

6.2.10 RUS shall have consented to the Unwind Transaction and the New Transaction and to all arrangements and agreements required to implement the Unwind Transaction and the New Transaction.

6.3 Efforts to Satisfy Conditions to Effective Date. Each of the Parties shall use commercially reasonable efforts and act in good faith to satisfy all of the conditions set forth in Section 6.2 at the earliest practicable date (other than those which the applicable Party agrees to waive). At such time as Big Rivers or Kenergy believes such conditions have been satisfied, such Party shall notify the other Party in writing. The obligations of the Parties under this Section 6.3 will continue until the earlier of (a) such time as this Agreement terminates pursuant to Section 7.2, and (b) the Effective Date.

ARTICLE 7

TERM AND TERMINATION

7.1 Term. Subject to Section 6.1, this Agreement will become binding on the Parties on the date of execution and delivery by the Parties and will remain in full force and effect until December 31, 2023 (the "Term"), unless earlier terminated pursuant to the terms hereof.

7.2 Termination Prior to Effective Date. This Agreement may be terminated without cost or penalty prior to the occurrence of the Effective Date in accordance with this Section 7.2.

7.2.1 Termination for Failure to Satisfy Conditions to Effective Date. Either Party may terminate this Agreement without cost or penalty by providing five Business Days' prior written notice of termination to the other Party upon the failure of the conditions in

Section 6.2 to be satisfied in full or waived by the Person in whose favor the condition exists on or before [____], or such later date as the Parties may agree, unless any such condition is satisfied or waived by the applicable Person within such five Business Day period.

7.2.2 Termination In Event Unwind Transaction Will Not Be Consummated. This Agreement may be terminated by either Party at any time prior to the Effective Date upon receipt of notice from LG&E or Big Rivers that either LG&E or Big Rivers does not intend to consummate the Unwind Transaction.

7.2.3 Termination Due to KPSC Modification. If the KPSC issues an order on any of the filings by Big Rivers or other Persons seeking necessary approvals for the Unwind Transaction and the New Transaction that disapproves or changes the pricing or other material terms of this Agreement or the Century Retail Agreement or Big Rivers' ability to recover costs from the Smelters or the Non-Smelter Ratepayers other than as contemplated in connection with the New Transaction, either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other Party and Century no later than three Business Days after the first to occur of the following: (i) the last date on which a petition for re-hearing may be filed if such a petition has not been filed, (ii) the date on which the KPSC issues an order denying the request for re-hearing for any petition for re-hearing that may have been filed during the allowed period, and (iii) if a rehearing occurs, following the date on which an order on rehearing is issued.

7.2.4 Termination Pursuant to Century Termination. Either Party may terminate this Agreement without cost or penalty by providing written notice of termination to the other following receipt by Kenergy of a notice of termination from Century pursuant to and in accordance with Section 7.2.3 of the Century Retail Agreement.

7.2.5 Effect of Pre-Effective Date Termination. If this Agreement is terminated in accordance with this Section 7.2, Big Rivers and Kenergy acknowledge and agree that the Existing Century Agreement and the Kenergy/LG&E Contract and all other related documents and agreements will continue in full force and effect as if this Agreement had not been executed and delivered by the Parties.

7.3 Termination After the Effective Date. This Agreement may be terminated after the occurrence of the Effective Date in accordance with this Section 7.3.

7.3.1 Termination for Closing of SebreeHawesville Smelter. Either Party may terminate this Agreement as of the date Century terminates the Century Retail Agreement pursuant to Section 7.3.1 therein in connection with the termination and cessation of all aluminum smelting operations at the SebreeHawesville Smelter.

7.3.2 Termination for Event of Default. This Agreement may be terminated following the occurrence and during the continuation of an Event of Default pursuant to Article 14.

7.3.3 Termination Following KPSC Order.

(a) Big Rivers may terminate this Agreement without cost or penalty by providing written notice of termination to Kenergy and Century within three Business Days of the issuance by the KPSC of an order unconditionally or conditionally approving this Agreement and the Century Retail Agreement in connection with the consummation of the Unwind Transaction if Big Rivers determines in its business judgment, exercised in good faith, that the Unwind Transaction is not in Big Rivers' best interests.

ARTICLE 8

METERING

8.1 Metering Facilities. Big Rivers will provide or cause to be provided metering facilities at the Point of Delivery which measure Hourly kW, kWh, kilovars, kilovar-hours and voltage fluctuation spectra.

8.2 Reading. Big Rivers will read or cause to be read the meters at the Point of Delivery on the last date of each month (or such other date as may be agreed upon by the Parties).

8.3 Testing. Big Rivers will test, or cause to be tested, the calibration of the meters at the Point of Delivery by comparison of accurate standards at least once every twelve months (or more often if so required by Applicable Law) and will give Kenergy and Century not less than five Business Days' prior notice of such testing. Kenergy and Century will have the right to observe and participate in all meter tests. Meters registering not more than plus or minus 1% inaccurate will be deemed to be accurate (unless Applicable Law establishes a standard more stringent than 1%, in which case, the more stringent standard will apply). The reading of any meter which will have been disclosed by tests to be inaccurate will be corrected for the 60 days before such tests (or for such shorter period if applicable) in accordance with the percentage of inaccuracy found by such tests. If any meter should fail to register for any period, the Parties and Century will make mutually agreed upon estimates for such period from the best information available. If Kenergy or Century requests a special meter test, Big Rivers shall cause such test to be conducted; *provided, however*, that if any special meter test made at the request of Kenergy or Century discloses that the meters are not more than plus or minus 1% inaccurate, Kenergy or Century, as applicable, shall reimburse Big Rivers for the reasonable cost of such test. In all other respects, meters through which Big Rivers delivers Energy to Kenergy for resale to Century shall be installed, operated, maintained and tested in accordance with all Applicable Law and Prudent Utility Practice.

ARTICLE 9

OPERATIONAL MATTERS

9.1 Operations and Operational Responsibility. In carrying out the requirements of this Agreement, each Party will comply with the reliability criteria, standards, guidelines and operating procedures of any national electric reliability organization, SERC, Applicable Law and any regional transmission organization (if applicable), and neither Party will be required to take any action in violation of any thereof.

9.1.1 Big Rivers will operate and maintain or cause to be operated and maintained all of the facilities owned by it on the premises of Kenergy or Century.

9.1.2 Kenergy will operate and maintain, or cause to be operated and maintained, all of the facilities and equipment owned by it.

9.2 Installation and Maintenance of Interconnection Equipment. Big Rivers has furnished or installed all of the facilities required for the delivery of Energy to the Point of Delivery, as well as the 161 kilovolt transmission lines required between the Point of Delivery and Century's electrical substation. Big Rivers shall install and maintain, or shall cause to be installed and maintained, any and all interconnection equipment, metering, or substation equipment, and other equipment, including switching and protective equipment, necessary to enable Kenergy to deliver Energy to Century at the Point of Delivery. Big Rivers will keep or cause to be kept, all such equipment in good working order, condition and repair (ordinary wear and tear excepted) such that all such equipment is capable of operating, consistent with Prudent Utility Practice, to the extent necessary to assure sufficient capability to take and use the Electric Services to be delivered by Big Rivers to Kenergy as provided for in this Agreement.

9.3 [Reserved.]

9.4 Curtailment by Big Rivers. If Big Rivers determines in accordance with Prudent Utility Practice, or in compliance with any national electric reliability organization, SERC, Applicable Law and other regulation, any applicable regional transmission organization, or other applicable operating criteria or rules, that a System Emergency has occurred or is imminent, and after suspending or reducing deliveries to Persons purchasing interruptible Energy from Big Rivers, Big Rivers may suspend or reduce the delivery of Energy hereunder and may cease to make available in whole or in part the Electric Services, in each case to the extent caused by, or that Big Rivers determines necessary or prudent under the circumstances to prevent or attempt to prevent, or counter or reduce the effects of, such System Emergency. Any curtailment caused by a System Emergency (or for any other reason) that cannot be avoided after the suspension or reduction of deliveries to Persons purchasing interruptible Energy from Big Rivers will be effected in a non-discriminatory manner consistent with Big Rivers' then-current policies and procedures. Big Rivers shall notify Kenergy and Century as to the occurrence or threatened occurrence of any System Emergency or other event that may require curtailment, its cause and its impact on the delivery of Energy or the provision of Electric Services, as soon as practicable. Big Rivers will not be obligated to supply Electric Services to the extent suspended or curtailed as a result of the System Emergency.

9.5 Ownership and Removal of Equipment. Any and all equipment, apparatus, devices or facilities placed or installed, or caused to be placed or installed, by either of the Parties hereto (or by Century) on or in the premises of the other Party (or Century) to receive service under this Agreement shall be and remain the property of the Party (or Century) owning and installing such equipment, apparatus, devices or facilities regardless of the mode or manner of annexation or attachment to real property of the other. Upon the termination of this Agreement or any extension thereof, the owner (including, if applicable, Century) of any equipment, apparatus, devices or facilities on the property of a Party shall have the right to enter

upon the premises of that Party, and shall, within a reasonable time and at the sole expense of the owner, remove such equipment, apparatus, devices or facilities.

ARTICLE 10

COVENANTS

10.1 Surplus Sales.

10.1.1 Big Rivers acknowledges and agrees that Century may request Big Rivers and Kenergy sell Energy which is surplus to Century's needs by delivering prior written notice to Kenergy and Big Rivers (a) identifying the portion of Base Demand per Hour to be sold and the associated times and duration of the requested sales, and (b) agreeing to curtail its demand per Hour so Century's actual demand and the Energy sold pursuant to this Section 10.1 ("Surplus Sales") is not expected to exceed the Base Demand per Hour. Big Rivers shall have no obligation to make Surplus Sales if the portion of Base Demand per Hour Century requests to be sold exceeds the Base Demand per Hour or is less than ten MW or not in integral multiples of one MW. For the avoidance of doubt, Surplus Sales shall not include sales of Economic Sales, Undeliverable Energy Sales or Potline Reduction Sales.

10.1.2 Big Rivers shall use reasonable commercial efforts to make Surplus Sales and, to the extent consistent with notices from Century to Big Rivers, maximize the Net Proceeds thereof. Big Rivers shall have no obligation to use any efforts to make Surplus Sales if Big Rivers, in its sole discretion exercised in good faith, estimates the Net Proceeds therefrom would be less than \$1.00 per MWh in excess of the sum of the Base Variable Rate, the FAC Factor, the Non-FAC Purchased Power Adjustment Factor ~~Factor~~ and the Environmental Surcharge Factor (each calculated on a per MWh basis). Big Rivers will not have any obligation to Kenergy to market or resell Energy pursuant to this Section 10.1 (a) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy, or (b) if Big Rivers is unable to sell any or all Energy as a result of transmission constraints (whether on or off Big Rivers' transmission system) or other constraints, including constraints imposed by Applicable Law.

10.1.3 For the avoidance of doubt, nothing in this Section 10.1 shall relieve Kenergy of its obligation for the Base Energy Charge or the TIER Adjustment Charge or any other portion of the Monthly Charge pursuant to Article 4.

10.1.4 For any applicable Surplus Sale, (i) Kenergy shall pay Big Rivers any excess of Big Rivers' actual income tax liability relating to such Surplus Sale over the estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale, and (ii) Big Rivers shall pay to Kenergy any excess of Big Rivers' estimated income tax liability for such Surplus Sale that was used for purposes of calculating the Net Proceeds on such Surplus Sale over the actual income tax liability of Big Rivers relating to such Surplus Sale.

10.2 Undeliverable Energy Sales.

10.2.1 If Century notifies Big Rivers and Kenergy of the occurrence of (i) any event which results in damage to or destruction of plant or equipment that renders all or a portion of the Hawesville Smelter unfit for normal use and limits Century's ability to engage in aluminum reduction operations thereat; (ii) Century's demand is initially reduced by at least 50 MW per Hour or more as a result thereof; (iii) such limitation is expected to continue for a period of 48 consecutive hours or longer; and (iv) the proximate cause of such casualty is not an intentional misconduct or willful misconduct of Century or any of its Affiliates, Big Rivers shall use reasonable commercial efforts to sell an amount of Energy up to the corresponding reduction in Century's demand as a result of such event during the continuance of such limitation, subject to the same terms, conditions and limitations as set forth for Surplus Sales in Section 10.1. The sales of Energy described in this Section 10.2 shall be referred to as "Undeliverable Energy Sales." Century may provide such notice orally if followed promptly by written notice. Big Rivers shall use reasonable commercial efforts to make such Undeliverable Energy Sales and, to the extent consistent with notices from Century to Big Rivers, maximize the Net Proceeds thereof.

(a) For a period of up to six months from the date of the occurrence of such event, all of the Net Proceeds of any such sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge or, if in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Century. Upon Century providing a certificate representing that the event can not be remedied with reasonable diligence within six months, Kenergy's rights under this Section 10.2 shall be extended for an additional period up to three months.

(b) Upon expiration of the period of Kenergy's rights under this Section 10.2, Big Rivers shall not have any obligations to sell Energy to a Third Party which otherwise would be available for purchase by Century hereunder except as otherwise expressly required pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, or Section 10.3 as Potline Reduction Sales. Undeliverable Energy Sales may not be greater than Base Demand per Hour.

(c) If the circumstances described in clauses (i), (ii), and (iv) of this Section 10.2.1 do not continue for a period of 48 consecutive hours or longer, such sales of Energy will be treated as Surplus Sales under Section 10.1 unless Section 10.3 applies.

10.2.2 For any applicable Undeliverable Energy Sale, (i) Kenergy shall pay to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Undeliverable Energy Sale over the estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale, and (ii) Big Rivers shall pay to Kenergy, upon Kenergy's receipt of such payment from Big Rivers, any excess of Big Rivers' estimated income tax liability for such Undeliverable Energy Sale that was used for purposes of calculating the Net Proceeds on such Undeliverable Energy Sale over the actual income tax liability of Big Rivers relating to such Undeliverable Energy Sale.

10.3 Potline Reduction Sales.

10.3.1 At the request of Kenergy, Big Rivers shall sell 115 MW (plus or minus 10 MW) per Hour to Third Parties (such sales of Energy are referred to as “Potline Reduction Sales”), such amount subject to Section 10.3.2 below, on either a Firm basis or a System Firm basis concurrently with delivery of not less than 30 days’ prior notice from Century to Kenergy and Big Rivers (which notice Kenergy and Big Rivers shall keep confidential) if (i) Century has ceased or will cease all aluminum smelting operations on one and only one of its potlines at the Hawesville Smelter (a “Potline Reduction”); (ii) Century is reasonably likely to be able to continue aluminum smelting operations with respect to all of its other potlines at the Hawesville Smelter as a result of the cessation of aluminum smelting operations on the potline referred to in clause (i); (iii) Century in good faith reasonably estimates the duration of such cessation will equal or exceed 12 months; and (iv) no Potline Reduction Sales have been made for a period of twelve consecutive months prior to the date of such notice. Such notice also shall state the requested duration of the sales of Energy and must be accompanied by a certificate of an officer of Century Parent certifying as to the matters set forth in clauses (i), (ii), (iii), and (iv) above.

10.3.2 Century, Kenergy and Big Rivers shall reasonably cooperate on a schedule for the graduated reduction and, in the case of a potline restoration, the graduated increase in the demand effected pursuant to Section 10.3.1 in such amounts and over a period of time as is mutually satisfactory.

10.3.3 Kenergy may not withdraw its request for Potline Reduction Sales to the extent that Big Rivers has a legally binding agreement with a Third Party for Potline Reduction Sales (a “Potline Reduction Sales Agreement”), *provided* that Big Rivers acknowledges and agrees that Century may at any time increase demand pursuant to Section 10.3.2 and assume responsibility for acquiring Market Energy required during the remainder of the Potline Reduction Sales Agreement.

10.3.4 Big Rivers shall use reasonable commercial efforts to make Potline Reduction Sales and, to the extent consistent with notices from Century to Big Rivers, maximize the Net Proceeds thereof. Big Rivers will not have any obligation to market or resell Energy pursuant to this Section 10.3 (i) until Big Rivers first has sold or elected not to sell all amounts of its own surplus Energy available for sale or (ii) to the extent Big Rivers is unable to make Potline Reduction Sales as a result of transmission constraints (whether on or off Big Rivers’ transmission system) or other constraints, including constraints imposed by Applicable Law.

10.3.5 Kenergy and Big Rivers shall consult with Century and agree on the Potline Reduction Sales that will be made on a Firm basis or a System Firm basis and the terms of same. To the extent Kenergy request the Potline Reduction Sales be made on a Firm basis, Kenergy agrees that if during the term of such sale or sales Big Rivers is required to purchase replacement Energy or otherwise make payments to meet such Potline Reduction Sales on a Firm basis, Kenergy will reimburse Big Rivers the full cost of such actions and indemnify Big Rivers for any costs, obligations or liabilities incurred by Big Rivers, including liabilities to Third Parties.

10.3.6 All of the Net Proceeds of any Potline Reduction Sales (less the administrative fee pursuant to Section 4.13.1) shall be credited against the Monthly Charge from

the effective date of the notice pursuant to Section 10.3.1 until the Cut-Off Date or, if such amount is in excess of the Monthly Charge otherwise applicable, such excess shall be paid to Kenergy for payment to Century. The "Cut-Off Date" shall mean the earliest to occur of (a) the first day of the 49th Billing Month after the effective date of the notice given under Section 10.3.1, (b) a date specified in a written notice, if any, by Century to Kenergy and Big Rivers, (c) the earlier of the date (i) one year after the date Century commences smelting operations with respect to one or more pots on the previously suspended potline or (ii) all Potline Reduction Sales Agreements have been terminated or expired after Century commences smelting operations with respect to one or more pots on the previously suspended potline. Sales of Energy after the Cut-Off Date shall be Surplus Sales pursuant to Section 10.1 and not Potline Reduction Sales pursuant to this Section 10.3. Kenergy agrees that it shall not be permitted to extend the term of Potline Reduction Sales beyond forty-eight months, *provided* that nothing in this Section 10.3.6 shall preclude Kenergy from providing a new notice under Section 10.3.1 after aluminum smelting operations at the suspended potline have been restored, subject to Section 10.3.1(iv).

10.3.7 For any Potline Reduction Sale, (i) Kenergy shall pay to Big Rivers any excess of Big Rivers' actual income tax liability relating to such Potline Reduction Sale over the estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale, and (ii) Big Rivers shall pay to Kenergy any excess of Big Rivers' estimated income tax liability for such Potline Reduction Sale that was used for purposes of calculating the Net Proceeds on such Potline Reduction Sale over the actual income tax liability of Big Rivers relating to such Potline Reduction Sale.

10.3.8 For the avoidance of doubt, (i) Potline Reduction Sales shall not include Surplus Sales, Economic Sales or Undeliverable Energy Sales; (ii) nothing in this Section 10.3 shall be construed to relieve Century of its obligation with respect to the Base Monthly Charge, the TIER Adjustment or other components of the Monthly Charge payable pursuant to Article 4; and (iii) nothing in this Agreement precludes Undeliverable Energy Sales under Section 10.2 from becoming Potline Reduction Sales if all conditions of this Section 10.3 are met.

10.4 Century Retail Agreement. Kenergy covenants that:

10.4.1 it will at all times fully perform and discharge all of its obligations under the Century Retail Agreement, and under any transmission agreement pursuant to which amounts of Energy are delivered directly or indirectly to Kenergy for sale and transmission to Century;

10.4.2 it will not resell any Electric Services purchased from Big Rivers under this Agreement to any user other than Century, except as expressly permitted in this Agreement or with the prior written consent of Big Rivers, which may be withheld by Big Rivers in its sole discretion, and shall require that any Energy that Kenergy purchases from Big Rivers under this Agreement and resells to Century must be consumed by Century in connection with the operation of its Hawesville Smelter;

10.4.3 it will not take any action or support any action by others that in any manner would impede Kenergy's ability to fulfill its obligations to Big Rivers under this

Agreement nor will it amend or modify the Century Retail Agreement, including with respect to (i) the rates, terms and conditions for service; (ii) the “Base Monthly Energy,” “Supplemental Energy,” or “Market Energy” under the Century Retail Agreement; (iii) Century’s payment obligations; or (iv) the term of the Century Retail Agreement without the prior written consent of Big Rivers;

10.4.4 it will not waive compliance by Century with any of its obligations under the Century Retail Agreement, fail to fully enforce the Century Retail Agreement against Century, or act in any manner that would adversely affect Kenergy’s ability to fulfill its obligations under this Agreement;

10.4.5 it will provide to Big Rivers all notices of default received or sent by Kenergy pursuant to the Century Retail Agreement;

10.4.6 it will not terminate the Century Retail Agreement if the termination would be a breach by Kenergy thereof (including rejection of the agreement in bankruptcy or reorganization proceeding);

10.4.7 it will not terminate the Century Retail Agreement for breach by Century without providing Big Rivers notice of such Century breach and a reasonable opportunity for Big Rivers to cure such Century breach, if it should elect, in its sole discretion, to do so. Big Rivers’ opportunity to cure will extend, at a minimum, for a period of not less than ten Business Days after the later of (i) the applicable period of time available for a cure by Century under the Century Retail Agreement, or (ii) notice of the breach by Century is delivered by Kenergy to Big Rivers; and

10.4.8 it will not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Century Retail Agreement to any Person without (i) subject to Section 16.2, first obtaining the written consent of Big Rivers, which consent will not be unreasonably withheld or delayed, and (ii) causing the transferee of the Century Retail Agreement to assume and agree to perform all of Kenergy’s obligations under this Agreement which arise following that assignment or transfer.

10.5 Refund of Income Tax Estimated for Net Proceeds. Big Rivers shall return to Kenergy for the benefit of Century any income taxes deducted in calculating the Net Proceeds of a sale of Energy by Big Rivers which Big Rivers ultimately determines are not to be required to be paid due to the application of a net operating loss carry-forward of Big Rivers that existed on the Effective Date and that otherwise would have expired unused.

10.6 Mitigation of Uncontrollable Force. Kenergy covenants that (a) if there is an Uncontrollable Force that prevents Big Rivers from delivering or Kenergy from receiving any Electric Services as required under this Agreement, Kenergy shall use reasonable commercial efforts to obtain Energy and related services from a Third Party Supplier for sale and delivery to Century as required under the Century Retail Agreement, and (b) Kenergy will take such other actions as are reasonably necessary to avoid a breach or default under the Century Retail Agreement that might, if not cured as required by that agreement, result in Century’s invocation of any of the remedies set forth in Article 14 of the Century Retail Agreement.

ARTICLE 11

UNCONTROLLABLE FORCES

11.1 Occurrence of an Uncontrollable Force. No Party will be considered to be in breach or default in the performance of any of its obligations under this Agreement if the failure of performance is due to an Uncontrollable Force, except as otherwise provided in this Article 11. If either Party is unable, in whole or in part, by reason of Uncontrollable Force to carry out its obligations, then the obligations of the Parties, to the extent that they are affected by such Uncontrollable Force, will be suspended during the continuance of any inability so caused, but for no longer period. A Party will not be relieved of liability for failing to perform if such failure is due to causes arising out of its own negligence or willful acts or omissions.

11.2 Mitigation. A Party rendered unable to fulfill any obligation by reason of an Uncontrollable Force shall exercise due diligence to remove or remedy such inability as promptly as reasonably possible. Nothing contained herein may be construed to require a Party to prevent or to settle a labor dispute against its will.

11.3 Notice of Uncontrollable Force. A Party shall notify the other Party at the earliest practicable time following (i) the occurrence of any Uncontrollable Force which renders such Party incapable of performing hereunder or (ii) the time at which such Party has reason to expect that such an Uncontrollable Force is imminent. Kenergy also shall notify Big Rivers if it receives notice from Century that Century anticipates that it will be unable to perform its obligations to Kenergy under any contract or agreement that affects Kenergy's performance under this Agreement due to an Uncontrollable Force and Big Rivers is not an additional addressee of such notice.

11.4 Payment Obligations. Notwithstanding anything in this Agreement to the contrary, the occurrence of an Uncontrollable Force shall not relieve Kenergy of its payment obligations under Article 4, including its payment obligations with respect to the Base Energy Charge.

ARTICLE 12

REPRESENTATIONS AND WARRANTIES

12.1 Representations and Warranties of Big Rivers. Big Rivers hereby represents and warrants to Kenergy as follows:

12.1.1 Big Rivers is an electric generation and transmission cooperative corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the Term hereof.

12.1.2 The execution, delivery and performance of this Agreement by Big Rivers have been duly and effectively authorized by all requisite corporate action.

12.2 Representations and Warranties of Kenergy. Kenergy hereby represents and warrants to Big Rivers as follows:

12.2.1 Kenergy is an electric cooperative corporation duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligation hereunder, and to carry on its business as such business is now being conducted and as is contemplated hereunder to be conducted during the Term hereof.

12.2.2 The execution, delivery and performance of this Agreement by Kenergy have been duly and effectively authorized by all requisite corporate action.

ARTICLE 13

ADDITIONAL AGREEMENTS

13.1 Regulatory Proceedings.

13.1.1 KPSC Jurisdiction. Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC over Big Rivers, Kenergy or the rates, terms and conditions of Electric Service to Kenergy.

13.1.2 Notice of Material Filings. Big Rivers shall provide to Kenergy and Century a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff, or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

13.2 Audit Rights.

13.2.1 Kenergy will permit Big Rivers to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Kenergy relating to its service to Century under the Century Retail Agreement, including scheduled usage, meter records and billing records. Kenergy shall retain all documentation applicable to service to Century under the Century Retail Agreement for a period of three years beyond the date of the service. Nothing in this Section 13.2 shall obligate Kenergy to disclose attorney-client privileged information.

13.2.2 Big Rivers will permit Kenergy and Century to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Big Rivers relating to its service to Kenergy under this Agreement, including scheduled deliveries, meter records, billing records, records related to payments made by Century to Big Rivers pursuant to the assignment described in Section 5.1, and such other documents related to payment for and determination of the amount of Electric Services supplied by Big Rivers and delivered to Kenergy for resale and delivery to Century and the appropriate classification of such Energy. Big Rivers shall retain all documentation applicable to service to Kenergy under this Agreement for a period of three years.

13.3 [Reserved.]

13.4 Patronage Capital.

~~13.4.1—Big Rivers shall amend its bylaws to adopt the provisions set forth in Appendix B and agrees not to amend its Bylaws thereafter in a manner that adversely affects the rights of Kenergy, or in turn of Century, to receive patronage capital or other distributions from Big Rivers.~~

~~13.4.2 The provisions of this Section 13.4 shall survive the expiration or earlier termination of this Agreement.~~

13.5 [Reserved.]

13.6 Negotiation of Replacement Agreement. If this Agreement has not been terminated earlier, Big Rivers shall negotiate in good faith with Kenergy and Century, no later than January 1, 2023, concerning rates and terms and conditions for new power supply arrangements following the expiration of this Agreement on December 31, 2023.

13.7 Entitlement to Large Industrial Rate. If this Agreement terminates pursuant to a closure of the Hawesville Smelter as set forth in Section 7.3.1 and Century continues non-smelting operations, Big Rivers acknowledges and agrees that Century will be entitled to be served by Kenergy under the Large Industrial Rate; *provided, however*, the capacity and associated Energy served under the Large Industrial Rate shall not exceed 15 MW.

13.8 Unbundling. Unless required by Applicable Law, Big Rivers will not seek to amend the Large Industrial Rate:

(a) To create unbundled services if unbundling those services alone would result in a more than \$1 million of additional revenue to Big Rivers; and

(b) In a manner which results in categories of OATT costs being charged to Kenergy which Century is responsible for under the Century Retail Agreement and which are utilized by but not charged to the Non-Smelter Ratepayers.

13.9 Not Exclusive Service Arrangement. Nothing in this Agreement may be construed (i) to limit the ability of Kenergy to purchase capacity, Energy or other services from Persons other than Big Rivers to serve Century, or (ii) to amend, waive or otherwise alter the terms of Big Rivers' plan of reorganization, as modified June 1, 1998, or agreements relating thereto regarding the supply obligation of Big Rivers after July 17, 1998, for wholesale power required by Kenergy to provide Electric Service to Century or Alcan.

ARTICLE 14

EVENTS OF DEFAULT; REMEDIES

14.1 Events of Default. Each of the following constitutes an “Event of Default” under this Agreement:

14.1.1 Failure by a Party to make any payment in accordance with this Agreement within three Business Days following the non-performing Party’s receipt of written notice of the non-performing Party’s default in its payment obligation;

14.1.2 Failure of a Party to perform any material duty imposed on it by this Agreement (other than a failure to make a payment when due) within 30 days following the non-performing Party’s receipt of written notice of the non-performing Party’s breach of its duty hereunder;

14.1.3 Any attempt by a Party to transfer an interest in this Agreement other than as permitted pursuant to Article 16;

14.1.4 The occurrence and continuance of an “Event of Default” under the Century Retail Agreement;

14.1.5 Any filing of a petition in bankruptcy or insolvency, or for reorganization or arrangement under any bankruptcy or insolvency laws, or voluntarily taking advantage of any such laws by answer or otherwise or the commencement of involuntary proceedings under any such laws by a Party and such petition has not been withdrawn or dismissed within 60 days after filing;

14.1.6 Assignment by a Party for the benefit of its creditors;

14.1.7 Allowance by a Party of the appointment of a receiver or trustee of all or a material part of its property and such receiver or trustee has not been discharged within 60 days after appointment; or

14.1.8 Failure, inability or refusal of Kenergy to cure a breach or default by Kenergy under the Century Retail Agreement which gives rise to a termination of the Century Retail Agreement, or any termination by Kenergy of the Century Retail Agreement in breach or default thereof.

14.2 Remedies, General. Except as otherwise provided in this Agreement, following the occurrence and during the continuance of an Event of Default by either Party, the non-defaulting Party may, in its sole discretion, elect to terminate this Agreement upon written notice to the other Party, or to seek enforcement of its terms at law or in equity. Unless otherwise provided herein, remedies provided in this Agreement are cumulative, unless specifically designated to be an exclusive remedy and nothing contained in this Agreement may be construed to abridge, limit, or deprive either Party of any means of enforcing any remedy either at law or in equity for the breach or default of any of the provisions herein provided that:

14.2.1 UNDER NO CIRCUMSTANCE WILL EITHER PARTY OR ITS RESPECTIVE AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGER, EMPLOYEES OR AGENTS BE LIABLE HEREUNDER TO THE OTHER PARTY, ITS AFFILIATES, DIRECTORS, OFFICERS, MEMBERS, MANAGERS EMPLOYEES OR AGENTS WHETHER IN TORT, CONTRACT OR OTHERWISE FOR ANY SPECIAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS. EACH PARTY'S LIABILITY HEREUNDER WILL BE LIMITED TO DIRECT, ACTUAL DAMAGES. THE EXCLUSION OF ALL OTHER DAMAGES SPECIFIED IN THIS SECTION IS WITHOUT REGARD TO THE CAUSE OR CAUSES RELATING THERETO. THIS PROVISION WILL SURVIVE TERMINATION OF THIS AGREEMENT.

14.2.2 Neither Party may terminate this Agreement as a result of an "Event of Default" under the Century Retail Agreement if the actions or omissions of Kenergy caused such "Event of Default"; *provided*, that either Party may terminate this Agreement if the Century Retail Agreement is terminated for any reason.

14.2.3 Unless otherwise provided herein, if a Party is in breach of its obligations under this Agreement but such breach does not constitute, or would not with the passage of time or the giving of notice constitute, an Event of Default and this Agreement does not provide any other remedy ~~therefor~~therefor, if such breach has not been cured by the breaching Party within 60 days after receiving written notice from the non-breaching Party setting forth, in reasonable detail, the nature of such breach, the non-breaching Party may bring a claim for money damages with respect to such breach and exercise its rights under Section 15.2, but will not be entitled to terminate, or seek to terminate, this Agreement, or suspend performance of its obligations and duties hereunder as a result of such breach.

ARTICLE 15

DISPUTE RESOLUTION

15.1 Resolution Meetings. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting among an authorized representative of each of the Parties and, if applicable, Century to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section 15.1 shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement.

15.2 Right to Pursue Rights and Remedies. Absent resolution of a dispute pursuant to Section 15.1, the Parties may pursue at any Governmental Authority all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement. Notwithstanding the provisions of this Article 15, each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

ARTICLE 16

GENERAL PROVISIONS/SUCCESSORS AND ASSIGNS

16.1 Binding Nature. This Agreement will inure to the benefit of and be binding upon the Parties hereto and their respective successors and permitted assigns. No interest in this Agreement may be transferred or assigned by either Party, in whole or in part, by instrument or operation of law, without the prior written consent of the other Party, except as provided in Section 16.4, and except that, subject to satisfaction of the conditions of Section 16.2, assignment may be made by either Party to such Person as acquires all or substantially all the assets of the assigning Party or which merges with or acquires all or substantially all of the equity of such Party. When consent is required, consent may not be unreasonably withheld, conditioned or delayed.

16.2 Limitation on Assignment. In no event may either Party assign this Agreement (including as part of a sale of all or substantially all the assets of the assigning Party or a merger with or purchase of substantially all the equity interests of such Party) (i) to any Person that does not have adequate financial capacity as demonstrated to the reasonable satisfaction of the non-assigning Party or that would otherwise be unable to perform the obligations of the assigning Party pursuant to this Agreement or (ii) on any terms at variance from those set forth in this Agreement except as agreed to in writing by the Parties.

16.3 Duties. No permitted assignment or transfer will change the duties of the Parties, or impair the performance under this Agreement except to the extent set forth in such permitted assignment and approved in writing by the Parties. No Party is released from its obligations under this Agreement pursuant to any assignment, unless such release is granted in writing.

16.4 Financing Lien. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

16.5 Big Rivers Restructuring.

16.5.1 In connection with a Restructuring, Kenergy, Century, Alcan and Big Rivers shall determine a good faith estimate of the cumulative increase or decrease in the TIER Adjustment that such Restructuring would cause in each Fiscal Year over the 24-Billing Month period following the date of the effectiveness of Restructuring (the "Restructuring Amount"). Any change in the Large Industrial Rate approved at the time of or in connection with the Restructuring shall not be considered as an effect of the Restructuring. Nothing in this Agreement, including this Section 16.5, shall limit the ability of Big Rivers to seek a change in or modification of the Large Industrial Rate in connection with the occurrence of a Restructuring.

16.5.2 The Monthly Charge in each month of the 48-month period following the effectiveness of the Restructuring shall be increased or decreased, as applicable, by an amount equal to 1/48th of the product of the Restructuring Amount and the Applicable

Percentage; provided, that the application of this Section 16.5 shall not result in Kenergy paying less than the sum of the Large Industrial Rate, the FAC Factor, the Environmental Surcharge Factor and the Non-FAC Purchased Power Adjustment Factor, and, all on a per MWh basis, for a customer with a 98% load factor with respect to Base Monthly Energy in any Fiscal Year. Sample calculations for determining a Restructuring Amount are set forth in Exhibit A.

16.5.3 This Section 16.5 shall not be applicable to any Restructuring undertaken in response to the loss of revenue caused by the termination of the Alcan Wholesale Agreement.

16.5.4 If Century, Alcan, Kenergy and Big Rivers are not able to determine a mutually agreeable estimate of the Restructuring Amount, then Big Rivers, Kenergy, Century or Alcan may petition to the KPSC to determine the Restructuring Amount.

ARTICLE 17

MISCELLANEOUS

17.1 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

17.2 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement; *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue will lie for the resolution of any ~~related~~ disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC any matter properly within FERC's jurisdiction.

17.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of any subsequent breach of the same or any other term, covenant or condition contained herein.

17.4 Amendments.

17.4.1 This Agreement may be amended, revised or modified by, and only by, a written instrument duly executed by both Parties.

17.4.2 The Parties acknowledge and agree that nothing in this Agreement shall limit the right of Big Rivers to file changes to the OATT, or limit the right of any Party to challenge any aspect of the OATT, including the applicable loss factor, the transmission service rates or any other transmission or ancillary service issue presented to FERC.

17.5 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to fulfill its obligations under this Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably exercised. Where notice to the other Party is required to be given herein, and no notice period is specified, reasonable notice shall be given.

17.6 Notices. A notice, consent, approval or other communication under this Agreement must be in writing, addressed to the Person to whom it is to be delivered at such Person's address shown below and (a) personally delivered (including delivery by a nationally recognized overnight courier service), or (b) transmitted by facsimile, with a duplicate notice sent by a nationally recognized overnight courier service, *provided however*, that (i) a notice under Section 2.3.2(a)(iii) or Section 10.2 may be given by telephone to be followed as soon as reasonably practicable by written notice as described herein and (ii) a notice of Uncontrollable Force shall be given by whatever means is available followed by notice in writing as described herein as soon as reasonably practicable. A notice given to a Person in accordance with this Section 17.6 will be deemed to have been delivered (a) if personally delivered to a Person's address, on the day of delivery if such day is a Business Day, or otherwise on the next Business Day, or (b) if transmitted by facsimile to a Person's facsimile number and a correct and complete transmission report is received, or receipt is confirmed by telephone, on the day of transmission if a Business Day, otherwise on the next Business Day; *provided, however*, that such facsimile transmission will be followed on the same day with the sending to such Person of a duplicate notice by a nationally recognized overnight courier to that Person's address. For the purpose of this Section 17.6, the address of a Party is the address set out below or such other address which that Party may from time to time deliver by notice to the other Party, in accordance with this Section 17.6:

If to Big Rivers:	Big Rivers Electric Corporation 201 Third Street Henderson, Kentucky 42420 Facsimile: _____ <u>(270) 827-2558</u> Attn: President and CEO
If to Kenergy:	Kenergy Corp. 6402 Old Corydon Road Henderson, Kentucky 42420 Facsimile: _____ Attn: President and CEO

17.7 Severability. If any clause, sentence, paragraph or part of this Agreement should for any reason be finally adjudged by any court of competent jurisdiction to be unenforceable or invalid, such judgment will not affect, impair or invalidate the remainder of this Agreement but

will be confined in its operation to the clause, sentence, paragraph or any part thereof directly involved in the controversy in which the judgment is rendered, unless the loss or failure of such clause, sentence, paragraph or part of this Agreement materially adversely affects the benefit of the bargain to be received by either or both of the Parties, in which event the Parties shall promptly meet and use their good faith best efforts to renegotiate this Agreement in such a fashion as will restore the relative rights and benefits of both Parties or, absent such renegotiation, the Party that was so materially adversely affected will be entitled, in its discretion, to terminate this Agreement.

17.8 Survival. Each provision of this Agreement providing for payment for Electric Services and any other amounts due hereunder, distribution of patronage capital, assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, indemnification or payment of other liabilities will survive termination of this Agreement to the full extent necessary for their enforcement and the protection of the Party in whose favor they run.

17.9 Merger. This Agreement constitutes the entire agreement and understanding of the Parties with respect to the matters addressed herein and supersedes all other prior or contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter of this Agreement, except as otherwise provided in (a) Section 6.1 and Section 7.2.5 hereof, (b) Amendment to Wholesale Power Agreements, dated as of July 15, 1998, by and between Big Rivers and Green River Electric Corporation, or (c) Amendment to Wholesale Power Agreements, dated as of July 15, 1998, by and between Big Rivers and Henderson Union Electric Cooperative Corp. The Parties agree and acknowledge that the agreements referred to in clauses (b) and (c) shall survive following the effectiveness of this Agreement. The Parties acknowledge that Big Rivers and Century disagree, notwithstanding the Unwind Transaction, as to the obligation of Big Rivers, in the absence of a new or amended contract, to serve Kenergy for the benefit of Century when the Existing Century Agreement terminates or when this Agreement terminates.

17.10 Further Assurances. The Parties shall execute such additional documents including a consent to assignment, legal opinions, estoppel letters or similar documents, and shall cause such additional actions to be taken as may be required or, in the judgment of any Party, be necessary or desirable, to effect or evidence the provisions of this Agreement and the transactions contemplated hereby.

17.11 Counterparts. This Agreement may be executed in any number of counterparts, which together will constitute but one and the same instrument and each counterpart will have the same force and effect as if they were one original.

17.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard or care with reference to, or any liability to, or any benefit for, any Person not a Party to this Agreement other than Century.

17.13 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

17.14 No Agency. This Agreement is not intended, and may not be construed to create any association, joint venture, agency relationship or partnership between the Parties or to impose any such obligation or liability upon either Party. Neither Party will have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or to be an agent or representative of, or otherwise bind, the other Party.

[Signatures Follow on Next Page]

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name:
Title:

KENERGY CORP.

By: _____
Name:
Title:

SCHEDULE 4.11(c)
REFERENCE ANNUAL FUEL COSTS PER MWH

<u>Year</u>	<u>Fuel Cost per MWH Sales*</u>
2008	15.68
2009	16.44
2010	16.74
2011	17.23
2012	17.65
2013	18.25
2014	17.82
2015	18.37
2016	18.38
2017	18.74
2018	18.43
2019	19.18
2020	19.04
2021	19.90
2022	19.23
2023	19.74

* Includes cost of Startups

SCHEDULE 6.2.2
LISTING OF OBLIGATIONS TERMINATED PURSUANT TO THE UNWIND
TRANSACTIONS

RETAIL OBLIGATIONS AND AMENDMENTS

1. Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
2. Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation and Southwire Company
3. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
4. Amendment No. 1 to Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
5. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Alcan Aluminum Corporation
6. Amendment No. 2 to Agreement for Electric Service, dated as of November 30, 2000, between Kenergy Corp. and Southwire Company

WHOLESALE OBLIGATIONS AND AMENDMENTS

7. Agreement for Electric Service, dated as of July 15, 1998, between Green River Electric Corporation and LG&E Energy Marketing Inc.
8. Agreement for Electric Service, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and LG&E Energy Marketing Inc.
9. Amendment to Wholesale Power Agreements Dated October 12, 1974 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
10. Amendment to Wholesale Power Agreements Dated February 16, 1988 and June 11, 1962 Between Big Rivers Electric Corporation and Kenergy Corp., dated as of November 30, 2000, between Big Rivers Electric Corporation and Kenergy Corp.
11. Agreement of Big Rivers Electric Corporation with Respect to Future Policies and Procedures Regarding Big Rivers' Transmission System (sometimes referred to as the "Wholesale ISO Agreement"), dated as of July 15, 1998, between Big Rivers Electric Corporation, Green River Electric Corporation, Henderson Union Electric Cooperative Corp., Jackson Purchase Electric Cooperative Corporation, and Meade County Rural Electric Cooperative

CERTAIN REORGANIZATION DOCUMENTS

12. Letter Regarding Schedule 5.4(a)(1) Provisions Regarding Restitution Amounts, dated July 2, 1998, from Geo. F. Hobday, Jr. on behalf of Big Rivers, sent to Frank N. King, W. David Denton, David C. Brown, Michael Kurtz, Allison Wade, and Charles Ritz
13. Letter Regarding Restitution Payments, dated July 13, 1998, from Michael Kurtz sent to James M. Miller and Geoff Hobday
14. Letter Regarding Restitution Payments, dated July 14, 1998, from Michael Core, on behalf of Big Rivers, sent to Allan Eyre and John Henderson
15. Letter Regarding Restitution Payments, dated July 15, 1998, from Allan B. Eyre, on behalf of Alcan, and John Henderson, on behalf of NSA and Southwire, sent to Michael Core

SECURITY AND LOCKBOX AGREEMENTS

16. Security and Lockbox Agreement, dated as of July 15, 1998, among PNC Bank, N.A., LG&E Energy Marketing Inc., Kenergy (as successor to Henderson Union), Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
17. Security and Lockbox Agreement, dated as of July 15, 1998, by and among LG&E Marketing Inc., Green River Electric Corporation, and Southwire Company

LOAD MANAGEMENT AGREEMENTS

18. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Alcan Corporation (as successor to Alcan Aluminum Corporation) and Alcan Primary Products Corporation (as successor to Alcan Corporation)
19. Load Management Agreement for Electric Power Supply, dated as of July 15, 1998, among LG&E Energy Marketing Inc., Southwire Company, Century Aluminum Company (as successor to Southwire Company), Century Aluminum of Kentucky LLC (as successor to Century Aluminum Company), Hancock Aluminum LLC (as successor to Century Aluminum of Kentucky LLC), and Century Aluminum of Kentucky General Partnership (as successor to Hancock Aluminum LLC and NSA, Ltd.)

ASSURANCES AND GUARANTIES

20. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Alcan Aluminum Corporation, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Alcan Aluminum Corporation

21. Assurances Agreement, dated July 15, 1998, between LG&E Energy Marketing Inc. and Southwire Company, with Related Guaranty, dated July 15, 1998, executed by LG&E Energy Corp. in favor of Southwire Company
22. Assurances Agreement, dated as of November 30, 2006, between Century Aluminum General Partnership and Big Rivers Electric Corporation
23. First Amendment to Assurances Agreement Dated as of November, 30, 2006, dated as of November __, 2007, by and between Century Aluminum of Kentucky General Partnership and Big Rivers Electric Corporation
24. Guaranty, dated August 1, 2003, from Alcan Corporation to and in favor of the E.ON Parties
25. Guaranty, dated July 15, 1998, of E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Henderson Union)
26. Guaranty, dated July 15, 1998, by E.ON (as successor to LG&E Energy Corp.) to and in favor of Kenergy (as successor to Green River Electric Corporation)

INDEMNIFICATION AGREEMENTS

27. Indemnification and Assignment Agreement, dated July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
28. Indemnification and Assignment Agreement, dated July 15, 1998, between Green River Electric Corporation and Southwire Company

TIER 3 CONTRACTS AND RELATED DOCUMENTS

29. Agreement for Tier 3 Electric Service (2001-2002), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
30. Agreement for Tier 3 Electric Service (2001-2005), dated as of July 15, 1998, between Green River Electric Company and LG&E Energy Marketing, Inc., with Southwire Company as a third-party beneficiary
31. Agreement for Interruptible Tier 3 Energy, dated as of July 25, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
32. Agreement for Interruptible Tier 3 Energy, dated as of November 5, 2002, between Kenergy Corp. and Big Rivers Electric Corporation
33. Agreement for Interruptible Tier 3 Energy, dated as of September 15, 2003, between Kenergy Corp. and Big Rivers Electric Corporation

34. Agreement for Interruptible Tier 3 Energy, dated as of November 30, 2006, between Kenergy Corp. and Big Rivers Electric Corporation
35. Agreement for Tier 3 Energy (Century), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
36. Agreement for Tier 3 Energy (Alcan), dated as of November 29, 2007, between Kenergy Corp. and Big Rivers Electric Corporation
37. Consent to the Agreement for Tier 3 Energy (Alcan), dated November ~~___~~29, 2007, by Alcan Primary Products Corporation
38. Consent to the Agreement for Tier 3 Energy (Century), dated November ~~___~~29, 2007, by Century Aluminum of Kentucky General Partnership
39. All other agreements related to the provision of Tier 3 service by or among Big Rivers, Kenergy, the Smelters or any LG&E parties

OTHER AGREEMENTS

40. Assumption and Consent Agreement, dated as of August 1, 2003, among Alcan Primary Products Corporation, WKE Station Two Inc., LG&E Energy Marketing Inc., Western Kentucky Energy Corp. and Kenergy
41. Undertaking of Alcan Corporation, dated August 1, 2003, from Alcan to and in favor of LG&E Energy Marketing Inc., and the Undertaking of Alcan Aluminum Corporation, dated July 15, 1998, in favor of Henderson Union Electric Cooperative Corporation and LG&E Energy Marketing Inc.
42. Special Assignment Agreement, dated as of March 26, 2001, among LG&E Marketing Inc., Southwire Company, Century Aluminum of Kentucky LLC and Century Aluminum Company
43. Consent and Agreement, dated December 23, 2005, among Century Aluminum of Kentucky LLC, Century Aluminum Company, Hancock Aluminum LLC, NSA, Ltd., Century Aluminum of Kentucky General Partnership, Metalsco, Ltd., Skyliner, Inc., Century Kentucky, Inc. and LG&E Energy Marketing Inc.
44. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Green River Electric Corporation and Southwire Company
45. Agreement with Respect to Procedures Regarding Big Rivers' Transmission System, dated as of July 15, 1998, between Henderson Union Electric Cooperative Corp. and Alcan Aluminum Corporation
46. Joint Use Agreement, dated as of February 8, 2000, between Western Kentucky Energy Corp. and Big Rivers Electric Corporation

SCHEDULE 6.2.3
LISTING OF CERTAIN DULY AUTHORIZED AND EXECUTED AGREEMENTS

RETAIL AGREEMENTS

1. Retail Electric Service Agreement by and between Kenergy Corp. and Alcan Primary Products Corporation
2. Retail Electric Service Agreement by and between Kenergy Corp. and Century Aluminum General Partnership

WHOLESALE AGREEMENTS

3. Wholesale Electric Service Agreement (Alcan) by and between Big Rivers Electric Corporation and Kenergy Corp.
4. Wholesale Electric Service Agreement (Century) by and between Big Rivers Electric Corporation and Kenergy Corp.

COORDINATION AGREEMENTS

5. Coordination Agreement by and between Big Rivers Electric Corporation and Alcan Primary Products Corporation
6. Coordination Agreement by and between Big Rivers Electric Corporation and Century Aluminum of Kentucky General Partnership

LOCKBOX AGREEMENTS

7. Security and Lockbox Agreement (Alcan) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Alcan Primary Products Corporation
8. Security and Lockbox Agreement (Century) by and among Old National Bank, Big Rivers Electric Corporation, Kenergy Corp., and Century Aluminum of Kentucky General Partnership

GUARANTEES

9. Parent Guarantee by Alcan Corporation in favor of Kenergy Corp., and Big Rivers Electric Corporation
10. Parent Guarantee by Century Aluminum Company in favor of Kenergy Corp., and Big Rivers Electric Corporation

APPENDIX A
Non-FAC Purchased Power Adjustment Factor

- A. Base Monthly Energy Sales to the smelters are subject to a Non-FAC Purchased Power Adjustment (PPA) to recover purchased power costs that the smelters have agreed to pay and are not otherwise included in Big Rivers' Fuel Adjustment Clause (FAC).
- B. Definitions

Definitions have the meanings given to them in the Agreement except as provided below:

“Account” is the specified numbered account as set forth in the Uniform System of Accounts – Electric, promulgated under Bulletin 1767B-1 by the Rural Utilities Service, an agency of the U.S. Department of Agriculture.

“SEPA” is the Southeastern Power Administration, an agency of the U.S. Department of Energy, or any successor agency.

“Wholesale Smelter Agreements” are the Alcan Wholesale Agreement and the Century Wholesale Agreement.

- C. Determination of the PPA

- (1) The monthly amount computed for all wholesale sales to which this PPA is applicable shall be increased or decreased at a rate per kWh in accordance with the following formula:

$$PPA = PP(m)/S(m) - PP(b)/S(b)$$

Where PPA is the PPA Factor for the month; PP(m) is the current Purchased Power Cost for the month; S(m) is the current applicable sales; PP(b) is the Purchased Power Cost for the base period; and S(b) is the sales in the base period. For the initial base period, PP(b)/S(b) (the “Purchased Power Base”) is \$0.00175.

- (2) Purchased Power Costs (PP) shall be the sum of:
 - (a) The total cost of power purchased (including purchases from SEPA) that is expensed by Big Rivers to Account 555 (excluding those costs that are recovered through Big Rivers' FAC and excluding costs expensed to Account Nos. 555.150, 555.151, and 555.152 regarding Big Rivers' cost share of HMP&L's Station Two) including transmission and related costs that are expensed to Account 565;
 - (b) The total amount of any adjustments to Purchased Power Costs attributable to prior months, whether positive or negative; and

- (c) The total cost of amounts credited by Big Rivers to Kenergy with respect to voluntary curtailments under Section 4.13.2 of either Smelter Wholesale Agreement to allow Big Rivers to avoid market priced purchases of power.

Less:

- (c) The total cost of power purchased directly associated with sales (including related system energy losses) by Big Rivers either to non-Member purchasers of power or to Kenergy under either Wholesale Smelter Agreement for resale to either Smelter as energy products other than Base Monthly Energy, assuming SEPA power followed by the lowest cost power, whether generated or purchased, shall be allocated to Applicable Sales.
- (3) Applicable Sales (S) shall be all kilowatt-hours sold at wholesale by Big Rivers (a) to its Members under all electric rate schedules, including the Large Industrial Rate, for resale to Kentucky ratepayers (other than the Smelters), and (b) to Kenergy as Base Monthly Energy as defined in each of the Wholesale Smelter Agreements.
 - (4) The current month (m) shall be the second month preceding the month in which the PPA Factor is billed.

APPENDIX B

Proposed Big Rivers Bylaw Provisions

Section 1. Operation on a Cooperative Basis. The cooperative shall at all times be operated on a non-profit, cooperative basis for the mutual benefit of its patrons. As used in these Bylaws, "patron" shall include members and non-members alike, who have expressly contracted in writing to do all or a portion of their business with the cooperative on a patronage basis on the terms contained in these Bylaws. No interest or dividends shall be paid or payable by the cooperative on any capital furnished by its patrons.

Section 2. Patronage Net Earnings. (a) The patronage net earnings of the cooperative (1) attributable to that portion of 2008 commencing on January 1, 2008 and ending the year during which the closing of the Unwind Transaction occurs (the "Unwind Year") that commences on January 1 of such year and ends on the last day of the month preceding the month in which the closing of the Unwind Transaction occurs (the "Initial 2008 Period") Unwind Period") and (2) attributable to 2008 (if the Unwind Year shall not be 2008) and all subsequent years preceding the Unwind Year shall be determined and allocated to the patrons in accordance with the bylaws as in effect on January 1, 2008. The patronage net earnings of the cooperative attributable to that portion of 2008 commencing the Unwind Year that commences on first day of the month in which the closing of the Unwind Transaction occurs and ending ends on December 31, 2008 31 of such year (the "Subsequent 2008 Unwind Period") (and all subsequent years) shall be determined and allocated to the patrons in accordance with the bylaws currently in effect. The patronage net earnings attributable to each of the Initial 2008 Unwind Period and the Subsequent 2008 Unwind Period will be determined by closing the books of the cooperative as of the last day of the Initial 2008 Unwind Period and by treating each of the Initial 2008 Unwind Period and the Subsequent 2008 Unwind Period as a short period taxable year; provided, that, the patronage net earnings of the cooperative attributable to the Unwind Transaction will be allocated solely as provided in clause (c)(2) below.

(b) The taxable income or loss of the cooperative from business done with or for its patrons on a cooperative basis, as computed for U.S. federal income tax purposes for purposes of calculating regular taxable income tax and alternative minimum taxable income, prior to taking into account any deduction for patronage dividends but after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in patronage earnings from prior taxable years ("patronage net earnings") shall, if positive, be allocated in an amount no less than the greater of such patronage net earnings as computed for regular income tax purposes and such patronage net earnings as computed for alternative minimum tax purposes to the patrons of the cooperative in the manner detailed in clause (c) below and, if negative, be treated in the manner detailed in clause (d) below.

(c)(1) As of the end of each taxable year, the amount of the patronage net earnings of the cooperative (except as provided in clauses (c)(2) and (c)(3) below relating to the Unwind Transaction and Extraordinary Transactions) shall be allocated to the patrons of the cooperative based on the ratio of the patronage net book earnings attributable to each such patron

for the year over the patronage net book earnings attributable to all of the patrons for that year provided, however, that for the Subsequent Unwind Period, the allocation shall be made based on the ratio of the patronage net book earnings attributable to each such patron for the Subsequent Unwind Period over the patronage net book earnings attributable to all of the patrons for the Subsequent Unwind Period. For this purpose, the patronage net book earnings attributable to each patron with respect to any year shall be $M_{Rural} + M_{LargeIndustrial} + M_{Smelters}$, where

M_{Rural} = the greater of zero or $((R_{Rural} - A) * K_{Rural})$

$M_{LargeIndustrial}$ = the greater of zero or $((R_{LargeIndustrial} - A) * K_{LargeIndustrial})$;

$M_{Smelters}$ = the greater of zero or $((R_{Smelters} - A) * K_{Smelters})$.

For purposes of the foregoing:

R_{Rural} = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to rural consumers (as determined pursuant to GAAP);

$R_{LargeIndustrial}$ = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to large industrial consumers (as determined pursuant to GAAP);

$R_{Smelters}$ = the cooperative's system-average revenue per kWh for that year from sales to the applicable patron for resale to smelter consumers (as determined pursuant to GAAP);

A = the cooperative's system-average cost per kWh for that year (based on the Total Cost of Electric Service, as set forth in the cooperative's RUS Form 12a for the year, and the Sales of Electricity (Grand Total), as set forth in the cooperative's RUS Form 12b for the year, and, hence, determined pursuant to GAAP);

K_{Rural} = the number of kWh purchased by the applicable patron during that year for resale to rural consumers;

$K_{LargeIndustrial}$ = the number of kWh purchased by the applicable patron during that year for resale to large industrial consumers;

$K_{Smelters}$ = the number of kWh purchased by the applicable patron during that year for resale to smelter consumers (if any).

Notwithstanding the foregoing, if the patronage net book earnings attributable to all of the patrons is negative for any year, the allocation of the patronage net earnings for that year shall instead be based on the ratio of (i) the cumulative patronage net earnings of the cooperative allocated to each of the patrons in all prior years subsequent to 1998, which is the year in which Big Rivers' bankruptcy reorganization closed, to (ii) the cumulative patronage net earnings allocated to all of the patrons during such years.

(2) The patronage net earnings of the cooperative attributable to the Unwind Transaction will be allocated amongst the patrons of the cooperative based on the ratio of the historic patronage allocations made to each of the patrons to the historic patronage allocations made to all of the patrons with respect to the period commencing with January 1, 1999, which is the year subsequent to the year in which Big Rivers' bankruptcy reorganization closed, and terminating on the last day of the month preceding the month in which the closing of the Unwind Transaction occurs; ~~provided, that the amount of historic patronage allocation attributable to the Initial 2008 Period shall be determined as provided in Section 2(a).~~

(3) In the event that an Extraordinary Transaction occurs as the result of the sale of generation or transmission assets, the patronage net earnings of the cooperative attributable to such sale of assets (but not in excess of the patronage net earnings for the year of such sale) will be allocated among the patrons of the cooperative based on the ratio of the historic patronage allocations made to each of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) to the historic patronage allocations made to all of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) for the period commencing on the first day of the year during which depreciation allowances were first allowed for federal income tax purposes with respect to the assets sold and terminating on the last day of the year during which such assets were sold. In the event that an Extraordinary Transaction occurs other than as the result of the sale of generation or transmission assets, the patronage net earnings of the cooperative attributable to such Extraordinary Transaction (but not in excess of the patronage net earnings for the year of such Extraordinary Transaction) will be allocated among the patrons of the cooperative based on the ratio of the historic patronage allocations made to each of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) to the historic patronage allocations made to all of the patrons (other than allocations made pursuant to (i) the 2000 Patronage Capital Allocation, (ii) the Unwind Transaction, and (iii) this Section 2(c)(3)) for the period that most equitably relates to the income or gain arising from the Extraordinary Transaction, taking into account all relevant facts and circumstances.

(d) If the patronage net earnings of the cooperative for any taxable year is negative, the deficit shall be carried forward and applied as an offset against future positive patronage net earnings (in accordance with clause (a**h**) above).

(e) If patronage net earnings of the cooperative shall be adjusted (by the IRS on audit or otherwise) for any year, the amount of patronage net earnings allocated to each patron pursuant to this Section 2 for that year shall be automatically adjusted in accordance with this Section 2 to reflect the recomputed patronage net earnings, with each member being notified within a reasonable time thereafter of the amount of the adjustment allocated to the patron's capital account.

Section 3. Nonpatronage Net Earnings. The taxable income or loss of the cooperative from business not done with or for its patrons on a cooperative basis for any taxable year, as computed for U.S. federal income tax purposes (“nonpatronage net earnings”), after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in nonpatronage net earnings from prior taxable years, shall, if positive, be retained by the cooperative as a permanent source of equity and, if negative, shall be carried forward to be applied as an offset against future positive nonpatronage net earnings. If the nonpatronage net earnings of the cooperative shall be adjusted (by the IRS on audit or otherwise) for any year, the calculations made pursuant to this Section 3 for that year shall be automatically adjusted in accordance with this Section 3 to reflect the recomputed nonpatronage net earnings.

Section 4. Recording Record-Keeping. The membership fee paid and the amount of patronage net earnings allocated to each patron shall be credited to a capital account maintained for such patron, with the books and records of the cooperative being set up and kept in such manner that, at the end of each taxable year, the amount of capital allocated and credited to each patron is clearly reflected in an appropriate record to the capital account of each patron (with the cooperative notifying each patron within a reasonable time after the close of the taxable year notify the amount of the patronage net earnings allocated to the patron's account with respect to such taxable year). All such amounts allocated to the capital account of any patron in accordance with this Article VIII shall be in pursuance of a legal obligation to do so. The capital account of each patron shall be assignable only on the books of the cooperative pursuant to written instructions from the assignor and only to successors in interest or successors in occupancy of all or a part of such patron's premises served by the cooperative unless the board of directors, acting under policies of general application, shall otherwise determine.

Section 5. Retirement of Patronage Capital. If, at any time prior to the liquidation of the cooperative, the board of directors shall determine that the financial condition of the cooperative will not be impaired thereby, the patrons' capital accounts may be retired in full or in part (except that no distribution shall be made that would result in a violation of any financial covenant of the cooperative). Generally, such retirements of capital shall be made in order of priority according to the year in which the patronage net earnings were allocated. Notwithstanding the foregoing, however, the board of directors shall have the discretion to determine the method of allocation, basis and order of priority of repayment for all amounts furnished as patronage capital.

Upon the liquidation of the cooperative, the assets of the cooperative shall be distributed in the following order: (i) all debts and obligations of the cooperative shall be paid in accordance with lawful priorities; (ii) each patron's capital account balance shall be paid without priority on a pro rata basis until all such capital accounts (as determined subsequent to adjusting such accounts by allocations of patronage net earnings for the year of liquidation) have been reduced to zero and (iii) any remaining assets of the cooperative shall be paid to the current and former patrons of the cooperative based upon the amount of their historic patronage with the cooperative measured by kilowatt-hours purchased from Big Rivers over the life of the cooperative. The life of the cooperative is defined to begin at the date Big Rivers was formed in 1961 and to continue uninterrupted through Big Rivers' bankruptcy reorganization to the date of liquidation.

Section 6. Definitions. For purposes of this Article VIII, the “Unwind Transaction” shall mean the transactions contemplated by that certain Transaction Termination Agreement dated as of March 26, 2007 to which the cooperative is a party, and an “Extraordinary Transaction” shall mean any transaction or event occurring after the completion of the Unwind Transaction and other than in the ordinary course of the business of the cooperative (including without limitation a sale of generation or transmission assets) where the patronage net earnings from such transaction or event are in excess of \$30 million.

Document comparison by Workshare Professional on Thursday, October 09, 2008
8:36:03 AM

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Description	#160362117v5<US_EAST> - Big Rivers - Wholesale Agreement (Century)
Document 2 ID	interwovenSite://DCDMS01/US_EAST/160362117/9
Description	#160362117v9<US_EAST> - Big Rivers - Wholesale Agreement (Century)
Rendering set	kyle test

Legend:	
<u>Insertion</u>	
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Deleted cell	
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Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	102
Deletions	99
<i>Moved from</i>	10
<i>Moved to</i>	10
Style change	0
Format changed	0
Total changes	221

**COMPARISON OF ALCAN SECURITY AND
LOCKBOX AGREEMENT**

SECURITY AND LOCK BOX AGREEMENT (Alcan)

This SECURITY AND LOCK BOX AGREEMENT, dated as of [_____] (the "Lockbox Agreement"), is made by and among OLD NATIONAL BANK, of Evansville, Indiana (the "Depository Bank"), BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation (together with its successors and assigns, the "Supplier" "Big Rivers"), KENERGY CORP., a Kentucky electric cooperative corporation (together with its successors and assigns, "Kenergy") and ALCAN PRIMARY PRODUCTS CORPORATION (together with its successors and assigns, the "Smelter").

PRELIMINARY STATEMENTS

A. Reference is made to that certain Retail Electric Service Agreement for Electric Service dated [_____] between Kenergy and the Smelter (as amended, modified or supplemented from time to time, the "Smelter Agreement"), pursuant to which Kenergy is obligated to sell to the Smelter and the Smelter agrees to purchase from Kenergy retail electric service in accordance with the terms and conditions specified therein.

B. Reference is made to that certain Agreement for wholesale electric service dated as of [_____] between Kenergy and Supplier**Big Rivers**, pursuant to which Supplier**Big Rivers** agrees to provide wholesale electric service to Kenergy for resale to the Smelter under terms described therein (collectively the "Wholesale Contract").

C. Reference is made to any additional agreements entered into from time to time, between Supplier**Big Rivers** and ~~Distribution Cooperative~~Kenergy that provide for the sale of wholesale electric service by Supplier**Big Rivers** to Kenergy (for resale by Kenergy to the Smelter) which Supplier**Big Rivers**, the Smelter and Kenergy agree, in writing, shall be covered by the terms of this Lockbox Agreement (collectively, the "Additional Supplier**Big Rivers** Agreements") and together with the Wholesale Contract, the "Total Supplier**Big Rivers** Agreements".

D. Reference is made to any additional agreements entered into, from time to time between Kenergy and the Smelter that provide for the sale to the Smelter of additional retail electric service procured from the Supplier**Big Rivers** by Kenergy which Supplier**Big Rivers**, the Smelter and ~~Distribution Cooperative~~Kenergy agree, in writing, shall be covered by the terms of this Lockbox Agreement (collectively, the "Additional Smelter Agreements" and together with the Smelter Agreement, the "Total Smelter Agreements").

E. The parties hereto wish to provide security to Supplier**Big Rivers** for obligations arising to Supplier**Big Rivers** from Kenergy pursuant to the Total Supplier**Big Rivers** Agreements (the "Secured Obligations") and for the orderly application of all amounts owing by the Smelter to Kenergy with respect to retail electric service pursuant to the Total Smelter Agreements (collectively, the "Smelter Payments"), without setoff for any other amounts that may be owing from Kenergy to the Smelter. Accordingly, Kenergy has agreed to establish, in the name of Kenergy, a bank account with the Depository Bank, which account shall be designated as, and hereinafter referred to as, the Lockbox Account (as hereinafter defined).

F. The Depository Bank has agreed to maintain the Lockbox Account pursuant to and in accordance with this Lockbox Agreement.

G. The Parties further understand and agree that the Smelter's only responsibility under this Lockbox Agreement is to make the Smelter Payments to the Depository Bank in accordance with the instructions set forth in Section hereof (or such other instructions as may be subsequently agreed to by ~~Supplier~~Big Rivers and Kenergy pursuant to the Lockbox Agreement and delivered to the Smelter).

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Payments by the Smelter. Unless otherwise agreed in writing, ~~Supplier~~Big Rivers, the Smelter and Kenergy hereby irrevocably agree that Smelter Payments shall be paid by wire transfer or through the Automated Clearing House (ACH) network to the Depository Bank for deposit in the Lockbox Account in accordance with Section 3 hereof and coincident with date payments are due and owing under the Total ~~Supplier~~Big Rivers Agreements and the Total Smelter Agreements applicable to this service. ~~Supplier~~Big Rivers, the Smelter and Kenergy agree that Smelter Payments shall be deemed to have been made to Kenergy and shall be credited toward the Smelter's payment obligations under the Total Smelter Agreements and satisfaction of Smelter's obligation to make Smelter Payments. Kenergy and ~~Supplier~~Big Rivers agree that amounts received by the Depository Bank from the Smelter shall be deemed to have been paid to ~~Supplier~~Big Rivers by Kenergy, shall be thereafter the property of ~~Supplier~~Big Rivers and shall be credited toward the Secured Obligations, subject to Section 3.

2. Lockbox Account. The Depository Bank has established account number [103089518] in the name "Kenergy Lockbox Account" (such account and any successor account are referred to as the "Lockbox Account") and the Depository Bank shall not change the name or account number without the prior written consent of ~~Supplier~~SupplierBig Rivers. Big Rivers shall possess exclusive dominion and control, as a secured party, of the funds (and any and all proceeds therefrom) from time to time in the Lockbox Account. Neither Kenergy nor any person or entity claiming by, through or under Kenergy shall have any control over the use of, or any right to withdraw any amount from, the Lockbox Account, except that ~~Supplier~~Big Rivers shall have the right to withdraw or direct the withdrawal of amounts from the Lockbox Account. The Depository Bank shall be entitled to rely on, and shall act in accordance with, all instructions given to it by ~~Supplier~~Big Rivers with respect to the Lockbox Account and the funds therein without further consent by Kenergy.

3. ~~[Distribution Cooperative~~Kenergy Fees. Prior to each day that Smelter deposits funds in the Lockbox Account or if such deposits are received by the Depository Bank after 12:00 noon, Henderson, Kentucky time, then the next Business Day, (a "Payment Day") ~~Supplier~~Big Rivers will provide a notice in writing to the Depository Bank (the "Distribution Cooperative Fee Notice"), setting forth the amount to be applied to ~~Distribution Cooperative~~Kenergy with respect to the Retail Fee (as defined in the Smelter Agreement) for the month in which such ~~Distribution Cooperative~~Fee Notice is received (the "Distribution Cooperative Kenergy Fees") and attaching copies of (i) the monthly statement provided by ~~Distribution Cooperative~~to Kenergy to the Smelter pursuant to the Total Smelter Agreements and (ii) the monthly statement provided by ~~Supplier to Distribution Cooperative~~Big Rivers to

Kenergy pursuant to the Total ~~Supplier~~Big Rivers Agreements. The Depository Bank shall be under no obligation to verify or confirm any of the information or calculations contained in any ~~Distribution Cooperative~~Fee Notice. Concurrently with delivery of ~~Kenergy~~the Fee Notice to the Depository Bank, ~~Supplier~~Big Rivers shall delivery a copy thereof to ~~Distribution Cooperative~~Kenergy and the Smelter, but the effectiveness of any such ~~Distribution Cooperative~~Fee Notice, as it relates to the Depository Bank's obligations under this Section 3, shall not depend on the delivery thereof to Depository Bank and the Smelter.}

4. Duties of the Depository Bank.

(a) The Depository Bank shall apply and credit to the Lockbox Account all wire transfers directed to such Lockbox Account, even though such wire transfers may identify the Lockbox Account as an account of Kenergy. The Smelter shall direct Smelter Payments to the Depository Bank in accordance with the following instructions:

Account Name: Kenergy Lockbox Account (Alcan)
Bank ABA No. 086300012
Account No. [_____]
Reference: Kenergy Corp. – Alcan Primary Products Corporation

The Depository Bank agrees (x) to maintain the Lockbox Account as a segregated account from Kenergy's other accounts, if any, maintained with the Depository Bank, (y) to refrain from commingling the funds deposited in the Lockbox Account with any other funds of Kenergy and (z) that the location of the Lockbox Account shall not be changed without the prior written consent of ~~Supplier~~Big Rivers.

(b) On each Payment Day, the Depository Bank shall, on behalf of ~~Distribution Cooperative~~Kenergy, withdraw and distribute the following amounts from funds on deposit in the lockbox Account in the following priority, and, in each case to the extent of the amount on deposit after giving effect to any prior withdrawal and distribution provided that prior to each application of funds, the Depository Bank shall have received from ~~Supplier~~a Distribution CooperativeBig Rivers a Fee Notice for the month in which such distribution is to be made:

(i) to the depository Bank, to pay fees, costs, expenses and indemnities as and when due to the Depository Bank on such Payment Date; then

(ii) to Kenergy in an amount equal to Kenergy Fees, pursuant the following wire transfer instructions: [____]; and then

(iii) the remainder to ~~Supplier~~Big Rivers, pursuant to the following wire transfer instructions: [_____].

Bank: Old National Bank, Evansville, IN
Bank ABA No. 086300012
Account No. 10585559
Beneficiary: Big Rivers Electric General Fund.

5. Assignment; Acknowledgement of Release; Grant of Security Interest; Remedies Upon Default.

(a) As security for Kenergy's obligations to ~~Supplier~~**Big Rivers** under the Total ~~Supplier~~**Big Rivers** Agreements and for good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, Kenergy hereby assigns to ~~Supplier~~**Big Rivers** all of its rights to receive the Smelter Payments and all of its rights to collect and enforce collection of such amounts due from the Smelter (collectively, the "Smelter Contract Rights"). The Smelter hereby acknowledges and consents to such assignment, and further agrees that, in realizing its rights in respect of the Smelter Contract Rights, ~~Supplier~~**Big Rivers** may sell and foreclose on such rights separately and apart from the disposition in respect of the rest of the Total Smelter Agreements. Kenergy agrees to cooperate with and assist ~~Supplier~~**Big Rivers** with respect to any collections of amounts due from the Smelter to Kenergy which are assigned to ~~Supplier~~**Big Rivers** pursuant to this Section, provided that ~~Supplier~~**Big Rivers** will reimburse Kenergy for any expenses it incurs in providing such cooperation and assistance. Kenergy represents and warrants to ~~Supplier~~**Big Rivers** that such assigned payments and rights are not subject to any existing liens or encumbrances.

(b) Upon execution of this Lockbox Agreement by Kenergy and the execution by Kenergy of any and all UCC Financing Statements requested by ~~Supplier~~**Big Rivers** as of the execution hereof, and so long as this Lockbox Agreement remains in effect, ~~Supplier~~**Big Rivers** hereby releases Kenergy from further liability under the Total ~~Supplier~~**Big Rivers** Agreements for any Smelter Payments assigned hereby, *provided* that such release does not relieve Kenergy of its other liabilities or responsibilities under each of the Total ~~Supplier~~**Big Rivers** Agreements.

(c) To secure the performance by Kenergy of all its obligations under the Total ~~Supplier~~**Big Rivers** Agreements, Kenergy hereby irrevocably pledges and/or assigns to ~~Supplier~~**Big Rivers**, and grants to ~~Supplier~~**Big Rivers** a security interest in (i) the Smelter Contract Rights, (ii) all Smelter Payments, excluding the Retail Fee, (to the extent such Smelter Payments have not been previously assigned to ~~Supplier~~**Big Rivers** by Kenergy) (iii) all of its right, title and interest in, to and under the Lockbox Account and all funds contained therein, and in all obligations of the Depository Bank to Kenergy with respect thereto and (iv) in all proceeds of the foregoing (such items in respect of which such security interest is given hereinafter collectively referred to as the "Collateral"). Upon the occurrence of a default by Kenergy under the Wholesale Contract, ~~Supplier~~**Big Rivers** may, in addition to exercising any of the remedies available to it under the Total ~~Supplier~~**Big Rivers** Agreements,

(x) enforce its right to all or any portion of the Collateral by such appropriate judicial proceedings as it shall deem most effective to protect and enforce such right;

(y) cause any action at law or suit in equity or other proceeding to be instituted and prosecuted to collect or enforce its right to the Collateral, or any portion thereof, to the extent permitted by applicable law; or

(z) sell, assign or otherwise liquidate any or all of the Collateral and take possession of the proceeds of any such sale or liquidation.

(d) Following the occurrence of a default by Kenergy under any Total SupplierBig Rivers Agreement and the enforcement by SupplierBig Rivers of its rights with respect to the Collateral in accordance with clause (c) above, SupplierBig Rivers shall be entitled to retain the proceeds received from any such enforcement.

6. Indemnity. SupplierBig Rivers hereby agrees to indemnify and hold the Depository Bank harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, without limitation, reasonable legal fees) (collectively, "Claims") with respect to the performance of this Lockbox Agreement unless such Claims arise from the Depository Bank's gross negligence or willful misconduct. SupplierBig Rivers further agrees, so long as the Smelter pays all Smelter Payments to the Depository Bank, to pay, indemnify and hold the Smelter harmless from and against any and all Claims of or against the Depository Bank with respect to the performance, interpretation, construction and enforcement of this Lockbox Agreement.

7. Fees and Expenses. SupplierBig Rivers hereby agrees that all fees and charges associated with the Lockbox Account as shall from time to time be mutually agreed upon by SupplierBig Rivers and the Depository Bank shall be included on a monthly consolidated account analysis statement which the Depository Bank shall submit to SupplierBig Rivers. This statement shall set forth the fees and charges payable by SupplierBig Rivers for such month and be accompanied by such supporting documentation as the Depository Bank shall deem reasonable. All fees and charges set forth in the statement described above shall be deducted from the Lockbox Account by Depository Bank.

8. Limitations on Liability of the Depository Bank. The Depository Bank undertakes to perform those duties as are expressly set forth herein and the other processing requirements as may be covered in any procedure agreement consented to by Kenergy and SupplierBig Rivers. Notwithstanding any other provisions of this Lockbox Agreement, it is agreed by the parties hereto that the Depository Bank shall not be liable for any action taken by it or any of its directors, officers, agents or employees in accordance with this Agreement except for its or their own gross negligence or willful misconduct. In no event shall the Depository Bank be liable for losses or delays resulting from force majeure, computer malfunctions, interruption of communication facilities, labor difficulties or other causes beyond the Depository Bank's reasonable control or for indirect, special or consequential damages.

9. Account Information. Upon the request of any party, the Depository Bank shall provide to each of SupplierBig Rivers and Kenergy statements summarizing the activity in the Lockbox Account. In addition, the Depository Bank will provide to each of SupplierBig Rivers and Kenergy copies of all information reasonably requested by either of them.

The Depository Bank may rely, and shall be protected in acting or refraining from acting, upon any notice (including but not limited to electronically confirmed facsimiles of such

notice) reasonably believed by the Depository Bank to be genuine and to have been given by the proper party or parties.

The Depository Bank shall have no obligation to review or confirm that any actions taken pursuant to this Lockbox Agreement comply with any other agreement or document between the ~~Supplier~~**Big Rivers**, the Smelter and the Distributive Cooperative or between any of them. The provisions of this paragraph shall survive termination of the Lockbox Agreement.

10. Waiver of Right of Set-Off. So long as any obligation of Kenergy to the ~~Supplier~~**Big Rivers** under this Lockbox Agreement remains outstanding, the Depository Bank waives, with respect to all of its existing and future claims against Kenergy or any affiliate thereof, all existing and future rights of set-off and banker's liens against the Lockbox Account and all items (and proceeds thereof) that come into its possession in connection with the Lockbox Account; *provided* that the Depository Bank retains the right to charge the Lockbox Account for all items deposited in and credited to the Lockbox Account after the date hereof and subsequently returned to the Depository Bank unpaid and for all fees and charges associated with *such returned items*.

11. Effectiveness; Integration; Amendments. This Lockbox Agreement shall be effective as of the date first written above, and the Depository Bank shall be in a position to *process remittances* to the Lockbox Account commencing [____], 2008, ____]. This Lockbox Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter contained herein. To the extent that any other agreement or understanding, whether in writing or oral, relating to the matters referred to herein is inconsistent with this Lockbox Agreement, this Lockbox Agreement shall *supersede* such other agreement, including any procedures agreement and any other agreement between Kenergy and the Depository Bank relating to the collection of the Smelter Payments. No provision of this Lockbox Agreement may be amended, modified or waived, except by a written instrument executed by the parties hereto. Any provision of this Lockbox Agreement which is or is declared illegal, invalid or unenforceable under any law or regulation shall not affect the legality, validity or enforceability of any other provisions hereof.

12. Termination. This Lockbox Agreement shall terminate on the earliest of (a) the date on which the Depository Bank receives a certificate of an authorized officer of ~~Supplier~~**Big Rivers** to the effect that all Secured Obligations have been paid in full, (b) the date of termination of this Lockbox Agreement by ~~Supplier~~**Big Rivers** (with the consent of Kenergy, which consent shall not be unreasonably withheld) upon 60 days prior written notice to the Depository Bank and to Kenergy or (c) the date of termination of this Lockbox Agreement by the Depository Bank (with the consent of ~~Supplier~~**Big Rivers**, which consent shall not be unreasonably withheld) upon 60 days prior written notice to Kenergy and to ~~Supplier~~**Big Rivers**, provided that such 60 day period shall be extended at the request of ~~Supplier~~**Big Rivers** if a substitute depository bank cannot be established during such 60 day period. Upon termination of this Lockbox Agreement pursuant to this Section, ~~Supplier~~**Big Rivers** shall be released from any and all liability and obligations with respect to such Lockbox Account or arising hereunder, and the Lockbox Account shall, at the option of Kenergy, be transferred to Kenergy's name and

become an account from which Kenergy may withdraw any and all funds contained therein, or the account shall be closed.

13. Substitute Depository Bank. In the event that the Depository Bank resigns or is removed by the Parties hereto (other than due to the occurrence of the events contemplated by clause (a) of Section 12 hereof), a substitute bank shall be nominated by ~~Supplier~~Big Rivers which nominee shall be approved by Kenergy (with notice to be provided to the Smelter). Such substitute Depository Bank shall accept such appointment by executing a comparable Lockbox Agreement and shall thereafter succeed to all rights and responsibilities of the Depository Bank as therein provided.

14. Notices. All notices, requests or other communications given to Kenergy, ~~Supplier~~Big Rivers or the Depository Bank shall be given in writing (including telex, facsimile transmission or similar writing) at the address or telex or facsimile number specified below:

Depository Bank:	Old National Bank 1 Main Street Evansville, IN 47708 Attn: Anna Lee Tepoch Facsimile No.: (812) 465-0123
Supplier <u>Big Rivers</u> :	Big Rivers Electric Corporation 201 Third Street Henderson, KY 42419 Attn: C. William Blackburn, —— Vice President, Power Supply <u>CFO</u> Facsimile No.: (270) 827-2101
Kenergy:	Kenergy Corp. P.O. Box 18 Henderson, KY 42419-0018 Attn: Facsimile: (270) 685-5981
Smelter:	Alcan Primary Products Corporation Highway 2096, Near Sebree, KY P.O. Box 44 Henderson, KY 42420 Attn: Pam Schneider Facsimile: (270) 521-7305

Any party may change its address or facsimile number or notices hereunder by notice to each other party hereunder. Each notice, request or other communication shall be effective (a) if given by facsimile transmission, when such facsimile is transmitted to the facsimile number specified in this Section, (b) if given by mail, two business days after such communication is deposited in the mail with first class postage prepaid, addressed as aforesaid or (c) if given by any other means, when delivered at the address specified in this Section.

15. Acknowledgment of Security Interest. By execution of this Lockbox Agreement the Depository Bank acknowledges and consents to the security interest granted by Kenergy to ~~Supplier~~**Big Rivers** pursuant to Section 5. Kenergy agrees to promptly execute and deliver all further instruments and documents that may be necessary or which ~~Supplier~~**Big Rivers** may in good faith reasonably request, in order to perfect and protect any pledge or security interest granted hereby, including, without limitation, such financing or continuation statements, or amendments thereto, as ~~Supplier~~**Big Rivers** may reasonably request.

16. Governing Law. Except to the extent that federal law or the laws of the state in which the Depository Bank is located govern the Lockbox Account, this Lockbox Agreement shall be governed by, and interpreted in accordance with, the laws of the Commonwealth of Kentucky, without regard to its conflicts of laws rules. For purposes of this Lockbox Agreement, the Commonwealth of Kentucky shall be deemed the bank's jurisdiction under the Kentucky Uniform Commercial Code.

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

IN WITNESS WHEREOF, each of the parties hereto has caused this Lockbox Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

OLD NATIONAL BANK

By: _____
Name:
Title:

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name: Mark A. Bailey
Title: President and CEO

KENERGY CORP.

By: _____
Name:
Title:

ALCAN PRIMARY PRODUCTS CORPORATION

By: _____
Name:
Title:

**COMPARISON OF CENTURY SECURITY AND
LOCKBOX AGREEMENT**

SECURITY AND LOCK BOX AGREEMENT (Century)

This SECURITY AND LOCK BOX AGREEMENT, dated as of [_____] (the "Lockbox Agreement"), is made by and among OLD NATIONAL BANK, of Evansville, Indiana (the "Depository Bank"), BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation (together with its successors and assigns, the "Supplier" "Big Rivers"), KENERGY CORP., a Kentucky electric cooperative corporation (together with its successors and assigns, "Kenergy") and CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP (together with its successors and assigns, the "Smelter").

PRELIMINARY STATEMENTS

A. Reference is made to that certain Retail Electric Service Agreement for Electric Service dated [_____] between Kenergy and the Smelter (as amended, modified or supplemented from time to time, the "Smelter Agreement"), pursuant to which Kenergy is obligated to sell to the Smelter and the Smelter agrees to purchase from Kenergy retail electric service in accordance with the terms and conditions specified therein.

B. Reference is made to that certain Agreement for wholesale electric service dated as of [_____] between Kenergy and ~~Supplier~~ Big Rivers, pursuant to which ~~Supplier~~ Big Rivers agrees to provide wholesale electric service to Kenergy for resale to the Smelter under terms described therein (collectively the "Wholesale Contract").

C. Reference is made to any additional agreements entered into from time to time, between ~~Supplier~~ Big Rivers and ~~Distribution Cooperative~~ Kenergy that provide for the sale of wholesale electric service by ~~Supplier~~ Big Rivers to Kenergy (for resale by Kenergy to the Smelter) which ~~Supplier~~ Big Rivers, the Smelter and Kenergy agree, in writing, shall be covered by the terms of this Lockbox Agreement (collectively, the "Additional Supplier Big Rivers Agreements") and together with the Wholesale Contract, the "Total Supplier Big Rivers Agreements".

D. Reference is made to any additional agreements entered into, from time to time between Kenergy and the Smelter that provide for the sale to the Smelter of additional retail electric service procured from the ~~Supplier~~ Big Rivers by Kenergy which ~~Supplier~~ Big Rivers, the Smelter and ~~Distribution Cooperative~~ Kenergy agree, in writing, shall be covered by the terms of this Lockbox Agreement (collectively, the "Additional Smelter Agreements") and together with the Smelter Agreement, the "Total Smelter Agreements").

E. The parties hereto wish to provide security to ~~Supplier~~ Big Rivers for obligations arising to ~~Supplier~~ Big Rivers from Kenergy pursuant to the Total ~~Supplier~~ Big Rivers Agreements (the "Secured Obligations") and for the orderly application of all amounts owing by the Smelter to Kenergy with respect to retail electric service pursuant to the Total Smelter Agreements (collectively, the "Smelter Payments"), without setoff for any other amounts that may be owing from Kenergy to the Smelter. Accordingly, Kenergy has agreed to establish, in the name of Kenergy, a bank account with the Depository Bank, which account shall be designated as, and hereinafter referred to as, the Lockbox Account (as hereinafter defined).

F. The Depository Bank has agreed to maintain the Lockbox Account pursuant to and in accordance with this Lockbox Agreement.

G. The Parties further understand and agree that the Smelter's only responsibility under this Lockbox Agreement is to make the Smelter Payments to the Depository Bank in accordance with the instructions set forth in Section hereof (or such other instructions as may be subsequently agreed to by ~~Supplier~~Big Rivers and Kenergy pursuant to the Lockbox Agreement and delivered to the Smelter).

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. Payments by the Smelter. Unless otherwise agreed in writing, ~~Supplier~~Big Rivers, the Smelter and Kenergy hereby irrevocably agree that Smelter Payments shall be paid by wire transfer or through the Automated Clearing House (ACH) network to the Depository Bank for deposit in the Lockbox Account in accordance with Section 3 hereof and coincident with date payments are due and owing under the Total ~~Supplier~~Big Rivers Agreements and the Total Smelter Agreements applicable to this service. ~~Supplier~~Big Rivers, the Smelter and Kenergy agree that Smelter Payments shall be deemed to have been made to Kenergy and shall be credited toward the Smelter's payment obligations under the Total Smelter Agreements and satisfaction of Smelter's obligation to make Smelter Payments. Kenergy and ~~Supplier~~Big Rivers agree that amounts received by the Depository Bank from the Smelter shall be deemed to have been paid to ~~Supplier~~Big Rivers by Kenergy, shall be thereafter the property of ~~Supplier~~Big Rivers and shall be credited toward the Secured Obligations, subject to Section 3.

2. Lockbox Account. The Depository Bank has established account number [103089518] in the name "Kenergy Lockbox Account" (such account and any successor account are referred to as the "Lockbox Account") and the Depository Bank shall not change the name or account number without the prior written consent of ~~Supplier~~SupplierBig Rivers. ~~Supplier~~Big Rivers shall possess exclusive dominion and control, as a secured party, of the funds (and any and all proceeds therefrom) from time to time in the Lockbox Account. Neither Kenergy nor any person or entity claiming by, through or under Kenergy shall have any control over the use of, or any right to withdraw any amount from, the Lockbox Account, except that ~~Supplier~~Big Rivers shall have the right to withdraw or direct the withdrawal of amounts from the Lockbox Account. The Depository Bank shall be entitled to rely on, and shall act in accordance with, all instructions given to it by ~~Supplier~~Big Rivers with respect to the Lockbox Account and the funds therein without further consent by Kenergy.

3. ~~Distribution-Cooperative~~Kenergy Fees. Prior to each day that Smelter deposits funds in the Lockbox Account or if such deposits are received by the Depository Bank after 12:00 noon, Henderson, Kentucky time, then the next Business Day, (a "Payment Day") ~~Supplier~~Big Rivers will provide a notice in writing to the Depository Bank (the "~~Distribution Cooperative Fee~~ Notice"), setting forth the amount to be applied to ~~Distribution Cooperative~~Kenergy with respect to the Retail Fee (as defined in the Smelter Agreement) for the month in which such ~~Distribution-Cooperative~~Fee Notice is received (the "~~Distribution Cooperative~~Kenergy Fees") and attaching copies of (i) the monthly statement provided by ~~Distribution-Cooperative~~ to Kenergy to the Smelter pursuant to the Total Smelter Agreements and (ii) the monthly statement provided by ~~Supplier to Distribution-Cooperative~~Big Rivers to

~~Kenergy~~ pursuant to the Total Supplier~~Big Rivers~~ Agreements. The Depository Bank shall be under no obligation to verify or confirm any of the information or calculations contained in any ~~Distribution Cooperative~~~~Fee~~ Notice. Concurrently with delivery of ~~Kenergy~~~~the Fee~~ Notice to the Depository Bank, Supplier~~Big Rivers~~ shall delivery a copy thereof to ~~Distribution Cooperative~~~~Kenergy~~ and ~~the~~ Smelter, but the effectiveness of any such ~~Distribution Cooperative~~~~Fee~~ Notice, as it relates to the Depository Bank's obligations under this Section 3, shall not depend on the delivery thereof to Depository Bank and ~~the~~ Smelter.}

4. Duties of the Depository Bank.

(a) The Depository Bank shall apply and credit to the Lockbox Account all wire transfers directed to such Lockbox Account, even though such wire transfers may identify the Lockbox Account as an account of Kenergy. The Smelter shall direct Smelter Payments to the Depository Bank in accordance with the following instructions:

Account Name: Kenergy Lockbox Account (Century)
Bank ABA No. 086300012
Account No. []
Reference: Kenergy Corp. – Century Primary Products Corporation

The Depository Bank agrees (x) to maintain the Lockbox Account as a segregated account from Kenergy's other accounts, if any, maintained with the Depository Bank, (y) to refrain from commingling the funds deposited in the Lockbox Account with any other funds of Kenergy and (z) that the location of the Lockbox Account shall not be changed without the prior written consent of Supplier~~Big Rivers~~.

(b) On each Payment Day, the Depository Bank shall, on behalf of ~~Distribution Cooperative~~~~Kenergy~~, withdraw and distribute the following amounts from funds on deposit in the lockbox Account in the following priority, and, in each case to the extent of the amount on deposit after giving effect to any prior withdrawal and distribution provided that prior to each application of funds, the Depository Bank shall have received from Supplier—a ~~Distribution Cooperative~~~~Big Rivers a Fee~~ Notice for the month in which such distribution is to be made:

(i) to the depository Bank, to pay fees, costs, expenses and indemnities as and when due to the Depository Bank on such Payment Date; then

(ii) to Kenergy in an amount equal to Kenergy Fees, pursuant the following wire transfer instructions: []; and then

(iii) the remainder to Supplier~~Big Rivers~~, pursuant to the following wire transfer instructions: []:

Bank: Old National Bank, Evansville, IN
Bank ABA No. 086300012
Account No. 10585559
Beneficiary: Big Rivers Electric General Fund.

5. Assignment; Acknowledgement of Release; Grant of Security Interest; Remedies Upon Default.

(a) As security for Kenergy's obligations to SupplierBig Rivers under the Total SupplierBig Rivers Agreements and for good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, Kenergy hereby assigns to SupplierBig Rivers all of its rights to receive the Smelter Payments and all of its rights to collect and enforce collection of such amounts due from the Smelter (collectively, the "Smelter Contract Rights"). The Smelter hereby acknowledges and consents to such assignment, and further agrees that, in realizing its rights in respect of the Smelter Contract Rights, SupplierBig Rivers may sell and foreclose on such rights separately and apart from the disposition in respect of the rest of the Total Smelter Agreements. Kenergy agrees to cooperate with and assist SupplierBig Rivers with respect to any collections of amounts due from the Smelter to Kenergy which are assigned to SupplierBig Rivers pursuant to this Section, provided that SupplierBig Rivers will reimburse Kenergy for any expenses it incurs in providing such cooperation and assistance. Kenergy represents and warrants to SupplierBig Rivers that such assigned payments and rights are not subject to any existing liens or encumbrances.

(b) Upon execution of this Lockbox Agreement by Kenergy and the execution by Kenergy of any and all UCC Financing Statements requested by SupplierBig Rivers as of the execution hereof, and so long as this Lockbox Agreement remains in effect, SupplierBig Rivers hereby releases Kenergy from further liability under the Total SupplierBig Rivers Agreements for any Smelter Payments assigned hereby, *provided* that such release does not relieve Kenergy of its other liabilities or responsibilities under each of the Total SupplierBig Rivers Agreements.

(c) To secure the performance by Kenergy of all its obligations under the Total SupplierBig Rivers Agreements, Kenergy hereby irrevocably pledges and/or assigns to SupplierBig Rivers, and grants to SupplierBig Rivers a security interest in (i) the Smelter Contract Rights, (ii) all Smelter Payments, excluding the Retail Fee, (to the extent such Smelter Payments have not been previously assigned to SupplierBig Rivers by Kenergy) (iii) all of its right, title and interest in, to and under the Lockbox Account and all funds contained therein, and in all obligations of the Depository Bank to Kenergy with respect thereto and (iv) in all proceeds of the foregoing (such items in respect of which such security interest is given hereinafter collectively referred to as the "Collateral"). Upon the occurrence of a default by Kenergy under the Wholesale Contract, SupplierBig Rivers may, in addition to exercising any of the remedies available to it under the Total SupplierBig Rivers Agreements,

(x) enforce its right to all or any portion of the Collateral by such appropriate judicial proceedings as it shall deem most effective to protect and enforce such right;

(y) cause any action at law or suit in equity or other proceeding to be instituted and prosecuted to collect or enforce its right to the Collateral, or any portion thereof, to the extent permitted by applicable law; or

(z) sell, assign or otherwise liquidate any or all of the Collateral and take possession of the proceeds of any such sale or liquidation.

(d) Following the occurrence of a default by Kenergy under any Total SupplierBig Rivers Agreement and the enforcement by SupplierBig Rivers of its rights with respect to the Collateral in accordance with clause (c) above, SupplierBig Rivers shall be entitled to retain the proceeds received from any such enforcement.

6. Indemnity. SupplierBig Rivers hereby agrees to indemnify and hold the Depository Bank harmless from and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind or nature whatsoever (including, without limitation, reasonable legal fees) (collectively, "Claims") with respect to the performance of this Lockbox Agreement unless such Claims arise from the Depository Bank's gross negligence or willful misconduct. SupplierBig Rivers further agrees, so long as the Smelter pays all Smelter Payments to the Depository Bank, to pay, indemnify and hold the Smelter harmless from and against any and all Claims of or against the Depository Bank with respect to the performance, interpretation, construction and enforcement of this Lockbox Agreement.

7. Fees and Expenses. SupplierBig Rivers hereby agrees that all fees and charges associated with the Lockbox Account as shall from time to time be mutually agreed upon by SupplierBig Rivers and the Depository Bank shall be included on a monthly consolidated account analysis statement which the Depository Bank shall submit to SupplierBig Rivers. This statement shall set forth the fees and charges payable by SupplierBig Rivers for such month and be accompanied by such supporting documentation as the Depository Bank shall deem reasonable. All fees and charges set forth in the statement described above shall be deducted from the Lockbox Account by Depository Bank.

8. Limitations on Liability of the Depository Bank. The Depository Bank undertakes to perform those duties as are expressly set forth herein and the other processing requirements as may be covered in any procedure agreement consented to by Kenergy and SupplierBig Rivers. Notwithstanding any other provisions of this Lockbox Agreement, it is agreed by the parties hereto that the Depository Bank shall not be liable for any action taken by it or any of its directors, officers, agents or employees in accordance with this Agreement except for its or their own gross negligence or willful misconduct. In no event shall the Depository Bank be liable for losses or delays resulting from force majeure, computer malfunctions, interruption of communication facilities, labor difficulties or other causes beyond the Depository Bank's reasonable control or for indirect, special or consequential damages.

9. Account Information. Upon the request of any party, the Depository Bank shall provide to each of SupplierBig Rivers and Kenergy statements summarizing the activity in the Lockbox Account. In addition, the Depository Bank will provide to each of SupplierBig Rivers and Kenergy copies of all information reasonably requested by either of them.

The Depository Bank may rely, and shall be protected in acting or refraining from acting, upon any notice (including but not limited to electronically confirmed facsimiles of such

notice) reasonably believed by the Depository Bank to be genuine and to have been given by the proper party or parties.

The Depository Bank shall have no obligation to review or confirm that any actions taken pursuant to this Lockbox Agreement comply with any other agreement or document between the ~~Supplier~~**Big Rivers**, the Smelter and the Distributive Cooperative or between any of them. The provisions of this paragraph shall survive termination of the Lockbox Agreement.

10. Waiver of Right of Set-Off. So long as any obligation of Kenergy to the ~~Supplier~~**Big Rivers** under this Lockbox Agreement remains outstanding, the Depository Bank waives, with respect to all of its existing and future claims against Kenergy or any affiliate thereof, all existing and future rights of set-off and banker's liens against the Lockbox Account and all items (and proceeds thereof) that come into its possession in connection with the Lockbox Account; *provided* that the Depository Bank retains the right to charge the Lockbox Account for all items deposited in and credited to the Lockbox Account after the date hereof and subsequently returned to the Depository Bank unpaid and for all fees and charges associated with such returned items.

11. Effectiveness; Integration; Amendments. This Lockbox Agreement shall be effective as of the date first written above, and the Depository Bank shall be in a position to process remittances to the Lockbox Account commencing [____], 2008. ____]. This Lockbox Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter contained herein. To the extent that any other agreement or understanding, whether in writing or oral, relating to the matters referred to herein is inconsistent with this Lockbox Agreement, this Lockbox Agreement shall supersede such other agreement, including any procedures agreement and any other agreement between Kenergy and the Depository Bank relating to the collection of the Smelter Payments. No provision of this Lockbox Agreement may be amended, modified or waived, except by a written instrument executed by the parties hereto. Any provision of this Lockbox Agreement which is or is declared illegal, invalid or unenforceable under any law or regulation shall not affect the legality, validity or enforceability of any other provisions hereof.

12. Termination. This Lockbox Agreement shall terminate on the earliest of (a) the date on which the Depository Bank receives a certificate of an authorized officer of ~~Supplier~~**Big Rivers** to the effect that all Secured Obligations have been paid in full, (b) the date of termination of this Lockbox Agreement by ~~Supplier~~**Big Rivers** (with the consent of Kenergy, which consent shall not be unreasonably withheld) upon 60 days prior written notice to the Depository Bank and to Kenergy or (c) the date of termination of this Lockbox Agreement by the Depository Bank (with the consent of ~~Supplier~~**Big Rivers**, which consent shall not be unreasonably withheld) upon 60 days prior written notice to Kenergy and to ~~Supplier~~**Big Rivers**, provided that such 60 day period shall be extended at the request of ~~Supplier~~**Big Rivers** if a substitute depository bank cannot be established during such 60 day period. Upon termination of this Lockbox Agreement pursuant to this Section, ~~Supplier~~**Big Rivers** shall be released from any and all liability and obligations with respect to such Lockbox Account or arising hereunder, and the Lockbox Account shall, at the option of Kenergy, be transferred to Kenergy's name and

become an account from which Kenergy may withdraw any and all funds contained therein, or the account shall be closed.

13. Substitute Depository Bank. In the event that the Depository Bank resigns or is removed by the Parties hereto (other than due to the occurrence of the events contemplated by clause (a) of Section 12 hereof), a substitute bank shall be nominated by ~~Supplier~~Big Rivers which nominee shall be approved by Kenergy (with notice to be provided to the Smelter). Such substitute Depository Bank shall accept such appointment by executing a comparable Lockbox Agreement and shall thereafter succeed to all rights and responsibilities of the Depository Bank as therein provided.

14. Notices. All notices, requests or other communications given to Kenergy, ~~Supplier~~Big Rivers or the Depository Bank shall be given in writing (including telex, facsimile transmission or similar writing) at the address or telex or facsimile number specified below:

Depository Bank:	Old National Bank 1 Main Street Evansville, IN 47708 Attn: Anna Lee Tepool Facsimile No.: (812) 465-0123
Supplier <u>Big Rivers</u> :	Big Rivers Electric Corporation 201 Third Street Henderson, KY 42419 Attn: C. William Blackburn, ———Vice President, Power Supply <u>CFO</u> Facsimile No.: (270) 827-2101
Kenergy:	Kenergy Corp. P.O. Box 18 Henderson, KY 42419-0018 Attn: Facsimile: (270) 685-5981
Smelter:	Century Aluminum Company P.O. Box 500 State Route 271 North Hawesville, Kentucky 42348 Attn: Plant Manager Fax: (270) 852-2882

Any party may change its address or facsimile number or notices hereunder by notice to each other party hereunder. Each notice, request or other communication shall be effective (a) if given by facsimile transmission, when such facsimile is transmitted to the facsimile number specified in this Section, (b) if given by mail, two business days after such communication is deposited in the mail with first class postage prepaid, addressed as aforesaid or (c) if given by any other means, when delivered at the address specified in this Section.

15. Acknowledgment of Security Interest. By execution of this Lockbox Agreement the Depository Bank acknowledges and consents to the security interest granted by Kenergy to Supplier **Big Rivers** pursuant to Section 5. Kenergy agrees to promptly execute and deliver all further instruments and documents that may be necessary or which Supplier **Big Rivers** may in good faith reasonably request, in order to perfect and protect any pledge or security interest granted hereby, including, without limitation, such financing or continuation statements, or amendments thereto, as Supplier **Big Rivers** may reasonably request.

16. Governing Law. Except to the extent that federal law or the laws of the state in which the Depository Bank is located govern the Lockbox Account, this Lockbox Agreement shall be governed by, and interpreted in accordance with, the laws of the Commonwealth of Kentucky, without regard to its conflicts of laws rules. For purposes of this Lockbox Agreement, the Commonwealth of Kentucky shall be deemed the bank's jurisdiction under the Kentucky Uniform Commercial Code.

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

IN WITNESS WHEREOF, each of the parties hereto has caused this Lockbox Agreement to be executed and delivered by its duly authorized officer as of the date first set forth above.

OLD NATIONAL BANK

By: _____
Name:
Title:

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name: Mark A. Bailey
Title: President and CEO

KENERGY CORP.

By: _____
Name:
Title:

CENTURY ALUMINUM OF KENTUCKY
GENERAL PARTNERSHIP

By: _____
Name:
Title:

Document comparison by Workshare Professional on Thursday, October 09, 2008
8:37:38 AM

Input:	
Document 1 ID	interwovenSite://DCDMS01/US_EAST/160362120/2
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Description	#160362120v4<US_EAST> - Big Rivers - Security and Lockbox (Century)
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Deleted cell	
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Moved to	0
Style change	0
Format changed	0
Total changes	196

**COMPARISON OF ALCAN COORDINATION
AGREEMENT**

COORDINATION AGREEMENT

Dated as of [_____]

by and between

BIG RIVERS ELECTRIC CORPORATION

and

ALCAN PRIMARY PRODUCTS CORPORATION

COORDINATION AGREEMENT

This COORDINATION AGREEMENT ("Agreement") is made and entered into as of [____], by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative ("Big Rivers"), and ALCAN PRIMARY PRODUCTS CORPORATION, a Texas corporation ("Alcan"). Big Rivers and Alcan are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS

A. Kenergy Corp., a Kentucky retail rural electric cooperative, currently supplies and delivers to Alcan, the owner and operator of an aluminum reduction plant in Sebree, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Henderson Union Electric Cooperative Corp., Kenergy's predecessor-in-interest, and Alcan Aluminum Corporation, Alcan's predecessor in interest (the "Existing Alcan Agreement").

B. Kenergy currently purchases certain electric energy and related services for resale to Alcan from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with such affiliates and parent, collectively, "LG&E") under an Agreement for Electric Service, dated as of July 15, 1998 (the "Kenergy/LG&E Contract").

C. Kenergy also currently purchases additional electric energy and related services for resale to Alcan, to serve the energy requirements of Alcan not provided by LG&E, from third-party suppliers, including Big Rivers.

D. The Existing Alcan Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

E. Big Rivers and LG&E have agreed to terminate and unwind existing transactions among them relating to the lease by Big Rivers of its interest in its generating facilities to LG&E and the sale by LG&E of electric energy and related services to Big Rivers.

F. In connection with and as a condition to such termination and unwind transactions, Big Rivers has agreed to supply electric energy and related services to Kenergy for resale to Alcan pursuant to a wholesale power sales agreement, dated as of the date hereof (the "Alcan Wholesale Agreement").

G. Kenergy has agreed to supply a similar amount of electric energy and related services to Alcan pursuant to a retail electric service agreement, dated as of the date hereof (the "Alcan Retail Agreement").

H. Big Rivers, Kenergy and Alcan have further agreed that Alcan will make payments due under the Alcan Retail Agreement to a depository bank under a certain Security and Lockbox Agreement to be executed among Big Rivers, Kenergy, Alcan and a depository bank selected by those parties (the "Lockbox Agreement") or, under arrangements relating to sales of Energy by Third Party Suppliers to Kenergy for resale to Alcan to the depository under other similar lockbox arrangements among Kenergy, Alcan and the Third Party Supplier.

I. As a further condition to the execution and delivery of the Alcan Wholesale Agreement by Big Rivers, and the execution and delivery of the Alcan Retail Agreement by Alcan, respectively, the Parties desire to enter into this Agreement to coordinate the performance of their respective obligations under such agreements.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and their mutual covenants set forth herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Definitions: Rules of Interpretations. Capitalized terms used in this Agreement and not defined herein have the meanings assigned to those terms in the Alcan Retail Agreement. The rules of interpretation set forth in Section 1.2 of the Alcan Retail Agreement shall apply to this Agreement as though fully set forth herein.

2. Term and Survival of Obligations. This Agreement shall commence on the date first written above, provided that the obligations of the Parties under Section 3 and Section 5 shall not commence until the Effective Date. This Agreement shall continue in effect until the Alcan Retail Agreement expires or is terminated in accordance with its terms. Notwithstanding the foregoing, any provision of this Agreement providing for payment from one party to the other for assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, or payment of other amounts will survive termination or expiration of this Agreement to the extent necessary for its enforcement and the protection of the Party in whose favor such provision exists.

3. Covenants and Agreements.

3.1 Alcan Retail Agreement. Alcan shall (i) fully perform and discharge all of its obligations under the Alcan Retail Agreement unless excused in accordance with the terms thereof; (ii) not act or rely upon any written or oral waivers granted by Kenergy of Alcan's performance under or compliance with provisions of the Alcan Retail Agreement that could be reasonably expected to materially adversely affect Big Rivers' rights or interests under the Alcan Wholesale Agreement without the prior written consent of Big Rivers; (iii) not waive the performance and discharge by Kenergy of its material obligations under the Alcan Retail Agreement without the prior written consent of Big Rivers; (iv) not amend or modify the Alcan Retail Agreement without the prior written consent of Big Rivers (the addition, deletion, modification or amendment of supplemental tariffs contemplated by the Alcan Retail Agreement which has been approved by the KPSC is deemed not to be an amendment or modification of the Alcan Retail Agreement for the purposes of this Section 3.1); (v) not terminate or repudiate the

Alcan Retail Agreement (including by rejection or similar termination in a bankruptcy proceeding involving Alcan) other than in accordance with the provisions thereof without the prior written consent of Big Rivers; (vi) make payments pursuant to the Alcan Retail Agreement when due and in accordance therewith and the Lockbox Agreement for so long as such agreements exist; (vii) not take any action or support any action by others that in any manner would impede Alcan's ability to fulfill its obligations to Kenergy or Big Rivers under the Alcan Retail Agreement or this Agreement or act in any manner that could reasonably be expected to materially adversely affect its ability to perform or discharge its obligations under this Agreement; (viii) provide Big Rivers with a copy of all notices sent to Kenergy pursuant to the Alcan Retail Agreement; and (ix) not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Alcan Retail Agreement except in accordance with Article 16 thereof; *provided*, that any transfer or assignment pursuant to Article 16 thereof which requires the consent or approval of Kenergy also shall require the consent of Big Rivers.

3.2 Alcan Wholesale Agreement. Big Rivers shall (i) fully perform and discharge all of its obligations under the Alcan Wholesale Agreement unless excused in accordance with the terms thereof; (ii) not act or rely upon any written or oral waivers granted by Kenergy of Big Rivers' performance under or compliance with provisions of the Alcan Wholesale Agreement that could be reasonably expected to materially adversely affect Alcan's rights or interests under the Alcan Retail Agreement without the prior written consent of Alcan; (iii) enforce the performance and discharge by Kenergy of its material obligations under the Alcan Wholesale Agreement and not waive the performance and discharge by Kenergy of its material obligations thereunder; (iv) not amend or modify the Alcan Wholesale Agreement without the prior written consent of Alcan (the addition, deletion, modification or amendment of supplemental tariffs contemplated by the Alcan Wholesale Agreement which has been approved by the KPSC is deemed not to be an amendment or modification of the Alcan Wholesale Agreement for the purposes of this Section 3.2); (v) not terminate or repudiate the Alcan Wholesale Agreement (including by rejection or similar termination in a bankruptcy proceeding involving Big Rivers) other than in accordance with the provisions thereof; (vi) not take any action or support any action by others that in any manner would impede Big Rivers' ability to fulfill its obligations to Kenergy or Alcan under the Alcan Wholesale Agreement or this Agreement or act in any manner that could reasonably be expected to materially adversely affect its ability to perform or discharge its obligations under this Agreement; (vii) provide Alcan with a copy of all notices sent to Kenergy pursuant to the Alcan Wholesale Agreement; and (viii) not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Alcan Wholesale Agreement except in accordance with Article 16 thereof; *provided*, that any transfer or assignment pursuant to Article 16 thereof which requires the consent or approval of Kenergy also shall require the consent of Alcan.

3.3 Payments.

(a) ~~3.3 Assurances Agreement Payments.~~ Big Rivers shall pay Alcan upon the Effective Date an amount equal to \$3,485,577 less \$83,333 for each month after December 31, 2006 (calculated as of the 25th day of each month) (the "Assurances Agreement Payment") in lieu of amounts otherwise payable under Section 3(i) of the Assurances Agreement between Alcan and LG&E Energy Marketing Inc., dated as of July 15, 1998. Big Rivers shall make the Assurances Agreement Payment to Alcan on the Effective Date; *provided*, that Big

Rivers may credit all or any portion of the Assurances Agreement Payment against one or more invoices relating to the sale of electric energy or related services to Kenergy for resale to Alcan prior to the Effective Date.

(b) Big Rivers shall pay Alcan upon the Effective Date \$3,031,000.

3.4 Budget.

(a) Big Rivers shall provide to Alcan for its review and evaluation (i) on or prior to the date 90 days prior to the end of each Fiscal Year, a copy of Big Rivers' then-current draft proposed annual capital and operating budget (the "Proposed Budget") for the following Fiscal Year, and (ii) any reasonably requested supporting information with respect to the Proposed Budget or expenditures in excess of the Budget.

(b) If requested by either Alcan or Century, Big Rivers and Alcan and, if the Century Retail Agreement is in effect, Century, shall jointly engage an independent expert (the "Independent Engineer") and shall agree on the scope of review required to evaluate the draft Proposed Budget. Big Rivers shall pay 50% and Alcan shall pay 50% of the fees and expenses of the Independent Engineer (or Alcan shall pay 25% if the Century Retail Agreement is in effect).

(c) Alcan shall have the opportunity to present the conclusions and recommendations of the Independent Engineer with respect to the Proposed Budget to the Coordinating Committee and to Big Rivers' Board of Directors as soon as reasonably practicable following the Independent Engineer's completion of the Proposed Budget evaluation.

(d) Big Rivers and Alcan will treat the reports, opinions and other work product of the Independent Engineer as confidential, proprietary business information that will not be publicly disclosed or offered as evidence in any regulatory or legal proceeding by Big Rivers, Kenergy or Alcan.

(e) On or prior to the last day of each Fiscal Year, Big Rivers shall provide Alcan copies of the final Budget for the following year. Big Rivers intends to use reasonable commercial efforts to keep its expenses each year within such year's Budget, but makes no representation that keeping its expenses within such year's Budget will be commercially feasible.

(f) Big Rivers shall provide Alcan notice if:

(i) Big Rivers (A) incurs or plans to incur \$4 million of capital expenditures in any Fiscal Year in excess of the capital expenditures in the Budget for such Fiscal Year, or (B) thereafter incurs or plans to incur an additional \$3 million of capital expenditures in excess of the capital expenditures in the Budget for such Fiscal Year; or

(ii) Big Rivers (A) incurs or plans to incur operating expenses in any Fiscal Year aggregating 2.5% in excess of Big Rivers' total operating expenses in the Budget for such Fiscal Year, or (B) thereafter,

incurs or plans to incur an additional 1.25% of such total operating expenses in the Budget, excluding in each case expenses for fuel, environmental compliance or purchased power.

At the request of Alcan, the Coordinating Committee shall meet to discuss the causes of such capital expenditures or operating expenses in excess of the budgeted amounts and, after meeting with the Coordinating Committee, if further requested, Big Rivers shall permit Alcan to make one presentation to Big Rivers' Board with respect thereto.

3.5 Plan of Reorganization. The Parties acknowledge and agree that nothing in the Alcan Retail Agreement, the Alcan Wholesale Agreement, this Agreement or any document or agreement relating thereto may be construed to amend, affirm, waive or otherwise alter the terms of Schedule 5.4(a) of the Big Rivers' plan of reorganization, as modified June 1, 1998, or any document or agreement relating thereto regarding the obligation of Big Rivers to serve Kenergy for the benefit of Alcan; *provided*, that Alcan and Big Rivers disagree, notwithstanding the Unwind Transaction, as to the obligation of Big Rivers, in the absence of a new or amended contract, to serve Kenergy for the benefit of Alcan when the Existing Alcan Agreement terminates or when the Alcan Retail Agreement terminates. The Parties acknowledge that clarity on this issue is desired by both Parties so that necessary and appropriate capital planning and decision-making can be undertaken. The Parties agree to endeavor in good faith to resolve this disagreement prior to 2015.

3.6 Alcan Credit Support. Alcan shall (i) if the rating of the unenhanced, unsecured debt obligation of Alcan Parent with Standard & Poor's is not "A+" or higher (and in addition, if Alcan Parent has such a rating from Moody's, that rating with Moody's is not "A1" or higher), provide and maintain credit support in the form of a letter of credit from a bank rated "A+" or higher, or other credit support acceptable to Big Rivers and Kenergy, in an amount equal to the amounts estimated by Big Rivers to be due to Big Rivers and Kenergy with respect to Alcan's obligations under the Alcan Retail Agreement for a period of two months, and any amount which Big Rivers estimates reasonably could be due with respect to taxes relating to any sale of Energy pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales, in each case, of the Alcan Retail Agreement ("Potential Tax Liability"); and (ii) cause Alcan Parent to guarantee to Big Rivers and Kenergy payment and performance of all obligations of Alcan under the Alcan Retail Agreement, including Potential Tax Liability, and all obligations of Alcan under the other documents entered into by Alcan and its Affiliates in connection with the New Transaction pursuant to a Guarantee Agreement executed by Alcan Parent in favor of Big Rivers and Kenergy which shall be satisfactory in form and substance to Big Rivers (the "Alcan Guarantee"). At the request of Big Rivers, Alcan will maintain the Alcan Guarantee until closure of all applicable tax years of Big Rivers. At the request of Alcan, Big Rivers will provide Alcan with information as to the amount and calculation of the estimated Potential Tax Liability and reasonably detailed documentation in support thereof.

3.7 Transmission Upgrade. As soon as reasonably practicable, Big Rivers will develop, finance and construct improvements to its transmission facilities to permit Big Rivers to transmit to its border all Base Energy.

3.8 Proceedings Affecting Rates.

(a) The Parties acknowledge and agree that

(i) Big Rivers shall have the right to seek KPSC approval for changes to the Non-Smelter Member Rates, and FERC approval of changes to the OATT, from time to time, but Big Rivers shall not seek an increase in its base rates to take effect before January 1, 2010, excluding any roll-in to Big Rivers' base rates of costs that would otherwise be recovered by the Environmental Surcharge or the FAC, and

(ii) Big Rivers will not seek to implement a wholesale rate reduction other than the Rebate to its Members under the procedures available in KRS 278.455 without the consent of Alcan;

provided that this commitment by Big Rivers will have no effect on the availability to Big Rivers' Members of the procedures in KRS 278.455 to flow-through any wholesale rate decrease to the Non-Smelter Ratepayers.

(b) Alcan shall have the right to intervene and participate in any proceeding that may affect rates at the KPSC or FERC or before any other Governmental Authority. Neither Big Rivers nor Alcan will support or seek, directly or indirectly, from any Governmental Authority, including the KPSC, any challenge to or change in the rate formula set forth in the Alcan Wholesale Agreement or the Alcan Retail Agreement or other terms and conditions set forth therein, including the relationship of the Large Industrial Rate to amounts payable by Alcan pursuant to the Alcan Retail Agreement, except that any Party may initiate or intervene in a proceeding to (i) clarify, interpret or enforce the Alcan Wholesale Agreement or the Alcan Retail Agreement, or (ii) challenge the applicable rate for Transmission Services should those services be unbundled for purposes of calculating the Large Industrial Rate. For the avoidance of doubt, Alcan's intervention and participation in a regulatory proceeding involving cost of service issues relating to the rates of the Non-Smelter Ratepayers shall not be considered a challenge to the rate formula.

(c) If *Commonwealth of Kentucky ex rel. Gregory D. Stumbo, Attorney General v. Public Service Comm'n and Union Light, Heat and Power Co.*, Franklin Circuit Court, C.A. No. 06-CI-269, or any Applicable Law relating thereto restricts the amounts recovered under the FAC, Appendix A, or the Environmental Surcharge Rider, then Kenergy, Alcan, Big Rivers and, if the Century Retail Agreement is then in effect, Century, shall negotiate in good faith to amend this Agreement (and other agreements entered into in connection herewith) to restore the relative rights and economic benefits thereunder. If such parties are unable to reach an agreement on such amendments, then this Section 3.8 shall not restrict Big Rivers from seeking KPSC approval for an increase to its base rates or an amendment to the FAC, Appendix A, or the Environmental Surcharge Rider.

(d) Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC or the FERC over Big Rivers or the rates, terms and conditions of electric service to Alcan pursuant to the Alcan Retail Agreement or otherwise.

(e) Big Rivers will provide Alcan a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

3.9 Communications: Request for Meetings. Big Rivers will establish with Alcan procedures for the regular dissemination of information relating to the operational and financial performance of Big Rivers. If Alcan believes Big Rivers has or may incur unreasonable costs or expenses, Alcan may request in writing a meeting with Big Rivers' management to discuss such costs or expenses. Such meeting will take place within ten Business Days of the request but shall not be held more frequently than once per fiscal quarter. Nothing in this Section shall obligate Big Rivers to take any action as a result of such meeting.

3.10 Depreciation Rates.

(a) Big Rivers shall not modify its depreciation rates without the approval of or consent or acceptance by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by any other Governmental Authority having jurisdiction over such modification. Big Rivers will provide Alcan reasonable notice of the implementation of such modification together with reasonably detailed documentation describing such modification and an opportunity to discuss such modification with Big Rivers' management prior to the filing of an application for approval of the modification of such depreciation rates with the KPSC or other Governmental Authority having jurisdiction.

(b) Big Rivers shall not initiate a request to a Governmental Authority or RUS for changes to its depreciation rates that would be projected to cause the weighted average depreciation rates for the period from the Effective Date through December 31, 2016, to exceed the weighted average depreciation rates for the same period set forth in the Model; *unless* (1) Big Rivers determines in good faith, based on discussions with a nationally recognized statistical rating organization and after consultation with Alcan, that it is necessary to make such a modification to its depreciation rates in order to maintain an investment grade credit rating, (2) a Governmental Authority with jurisdiction or RUS directs Big Rivers to modify its depreciation rates, or (3) Big Rivers' independent auditors assert that they would not be able to deliver an unqualified audit opinion with respect to Big Rivers' financial statements as a result of Big Rivers' failure to seek or implement a modification of its depreciation rates. For purposes of this clause (b), Big Rivers' weighted average depreciation rates for the period from Effective Date through December 31, 2016, shall be the sum of its total depreciation expense for each year for that same period over the sum of the average gross depreciable plant for each year over that same period, with appropriate adjustments for partial years.

3.11 Audit Rights Big Rivers will permit Alcan to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Big Rivers relating to its service under the Alcan Wholesale Agreement to Kenergy for resale to Alcan, including scheduled deliveries, meter records, billing records, records related to payments to Big Rivers and such other documents related to payment for and determination of the amount of electric energy, Transmission Services and other related services supplied by Big Rivers and delivered to Kenergy for resale and delivery to Alcan. Big Rivers shall retain all documentation applicable to service to Kenergy under the Alcan Wholesale Agreement for a period of three

years. Nothing in this Section 3.11 shall obligate Big Rivers to provide attorney-client privileged information.

3.12 ~~System Disturbance Agreement.~~ The Parties hereby acknowledge and agree that the System Disturbance Agreement, dated as of July 15, 1998, among Big Rivers, WKE Station Two Inc., Western Kentucky Energy Corp., predecessors in interest to Kenergy, and the Smelters shall continue in effect with respect to Big Rivers, Kenergy and the Smelters (but not Southwire Company) during the term of the Service Period. Bylaw Amendments.

(a) Subject to Section 3.12(b) and (c), Big Rivers agrees not to amend its Bylaws after the adoption of the amendment set forth in Section 13.4 of the Alcan Wholesale Agreement in a manner that adversely affects the rights of Alcan to receive patronage capital or other distributions from Big Rivers through Kenergy without the prior consent of Alcan.

(b) Notwithstanding Section 3.12(a), nothing in this Section 3.12 shall restrict Big Rivers' ability to amend its Bylaws (i) without the consent of Alcan if Big Rivers gives notice to Alcan of the proposed Bylaw amendment, together with a copy of such proposed amendment, and Alcan does not object to the proposed amendment within 60 days after the notice is delivered, (ii) with the consent of Alcan during the Consent Period (as defined in Section 3.12(c)), or (iii) without the consent of Alcan following the Consent Period.

(c) The provisions of this Section 3.12 (and the obligations of the parties to notify the other Party of any change in its address pursuant to Section 7.4 hereof) shall survive for 10 years after the end of the Service Period (the "Consent Period") regardless of the termination or expiration of this Agreement.

3.13 Operation of System. Big Rivers shall operate its electric generation and transmission system for the mutual benefit of the Members and patrons consistent with Prudent Utility Practices, and will apply the same standards to operating decisions that may affect the Monthly Charge. Big Rivers will not use the payment obligation of Alcan under Section 4.7 (TIER Adjustment Charge) of the Alcan Retail Agreement as the substantive basis for making an operating decision.

3.14 Property Rights.

(a) Big Rivers' nonpatronage net earnings, after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in nonpatronage net earnings from prior taxable years, shall, if positive, be retained by Big Rivers as a permanent source of equity and, if negative, shall be carried forward to be applied as an offset against future positive nonpatronage net earnings.

(b) Upon liquidation, the assets of Big Rivers shall be distributed in the following order: (i) all debts and obligations of Big Rivers shall be paid in accordance with lawful priorities, (ii) each Member's or other patron's capital account balance shall be paid without priority on a *pro rata* basis until all such capital accounts (as determined subsequent to adjusting such accounts by allocations of patronage net earnings for the year of liquidation

exclusive of any gain arising from the liquidation) have been reduced to zero, and (iii) any remaining assets of Big Rivers shall be paid to the current and former Members or other patrons of Big Rivers based upon the amount of their historic patronage with Big Rivers measured by kilowatt-hours purchased from Big Rivers over the life of Big Rivers. The life of Big Rivers is defined to begin at the date Big Rivers was formed in 1961 and to continue uninterrupted through Big Rivers' bankruptcy reorganization to the date of liquidation.

(c) The provisions of this Section 3.14 shall survive the expiration or earlier termination of this Agreement.

3.15 Big Rivers Capitalization Policy. To the extent consistent with Accounting Principles, Applicable Law and guidance of applicable Governmental Authorities or RUS, Big Rivers shall capitalize expenditures for the replacement of the items related to Big Rivers' generation facilities identified in the list of the retirement units set forth in the Schedule 3.15.

3.16 Purchased Power Regulatory Account. Big Rivers will request KPSC to and, if the KPSC approves, shall (a) establish a regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers in an amount equal to the sum of the Non-FAC Purchased Power Adjustment Factor in each month multiplied by the amount of Energy delivered in each month to the Members for such sales; and (b) establish the method of recovery of such amounts from Non-Smelter Ratepayers at each general rate adjustment case.

3.17 Model. It is understood and agreed that (i) all financial and production cost models ("Model") including the Model filed with the KPSC in connection with the application for approval of the Unwind Transaction and the New Transaction have been developed solely by Big Rivers to provide its best estimate of the future operations of Big Rivers after the Unwind Transaction is consummated, and (ii) Alcan by executing this Agreement and consummating the Unwind Transaction is not indicating its agreement or disagreement with the forecasted work plans, assumptions or specific expenditures embedded in the Model.

4. Coordinating Committee.

4.1 The parties have agreed to the establishment of a committee ("Coordinating Committee"), consisting of representatives of the Members' chief executive officers, Alcan, Century, and Big Rivers management, organized for the purpose of reviewing, analyzing and discussing information relating to Big Rivers' operational and financial performance. The Coordinating Committee shall meet at least once each calendar quarter.

4.2 If the Coordinating Committee does not exist or does not function with the subject matter of this Section 4, then Big Rivers shall have the same obligations as to the Smelters, jointly.

4.3 At a minimum of once a year and at such other times as the Parties may agree, the members of the Coordinating Committee will establish a meeting with Big Rivers' board members. These meetings will be informal and the purpose of such meetings will be to

discuss Big Rivers' operating and financial performances and plans, and issues affecting the electric utility and smelting industry operations.

4.4 The information to be discussed by the Coordinating Committee shall include (i) analysis criteria and procedures for evaluating plans, procedures, expenditures and maintenance programs, (ii) budgets, (iii) operations and capital expenditures, (iv) fuel procurement or supply, (v) comparison of actual performance to the Budget and an explanation of variances to the Budget, (vi) load forecasts and integrated resource plans, (vii) depreciation studies, proposed changes in depreciation rates and associated proposed changes in electric rates, and (viii) other activities, such as the timing and terms of refinancing the RUS debt or whether to join an independent transmission system operator, that may impact Big Rivers' operational and financial performance. Big Rivers shall provide the Coordinating Committee members any reasonably requested supporting information relating to the items discussed.

4.5 The activities of the Coordinating Committee shall be a standing report item on the agenda of the monthly meeting of the Big Rivers Board of Directors. From time to time Alcan's representatives may make a request to the chairman of the Big Rivers Board of Directors that they be allowed to participate with management in making such report.

5. Cure Rights.

5.1 Notwithstanding any provision contained in the Alcan Retail Agreement that affords Alcan the right to terminate the Alcan Retail Agreement upon any breach or default by Kenergy thereunder, Alcan shall provide Big Rivers a reasonable opportunity, exercisable in Big Rivers' sole discretion, to cure any such breach or default by Kenergy prior to exercising such termination rights, which opportunity shall extend, at a minimum, for a period of not less than 10 Business Days after the later of (i) the date of expiration of the applicable period of time (if any) available for a cure by Kenergy under the Alcan Retail Agreement, and (ii) the date on which notice of the breach or default by Kenergy is delivered by Alcan to Big Rivers. Alcan hereby consents to any attempt by Big Rivers to cure any breaches or defaults by Alcan under the Alcan Retail Agreement that may hereafter occur, provided, that Big Rivers does not materially interfere with Alcan's attempts (if any) to so cure such breaches or defaults.

5.2 Notwithstanding any provision contained in the Alcan Wholesale Agreement that affords Big Rivers the right to terminate the Alcan Wholesale Agreement upon any breach or default by Kenergy thereunder, Big Rivers shall provide Alcan a reasonable opportunity, exercisable in Alcan's sole discretion, to cure any such breach or default by Kenergy prior to exercising such termination rights, which opportunity shall extend, at a minimum, for a period of not less than ten Business Days after the later of (i) the date of expiration of the applicable period of time (if any) available for a cure by Kenergy under the Alcan Wholesale Agreement, and (ii) the date on which notice of the breach or default by Kenergy is delivered by Big Rivers to Alcan. Big Rivers hereby consents to any attempt by Alcan to cure any breaches or defaults by Big Rivers under the Alcan Wholesale Agreement that may hereafter occur, provided, that Alcan does not materially interfere with Big Rivers' attempts (if any) to so cure such breaches or defaults.

6. Representations and Warranties.

6.1 Big Rivers. Big Rivers hereby represents and warrants to Alcan as follows:

(a) Big Rivers is an electric generation and transmission cooperative corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement and the Alcan Wholesale Agreement, to perform its obligations hereunder and thereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

(b) Subject to Section 6.1(c), this Agreement, the Alcan Wholesale Agreement and other agreements entered into by Big Rivers in connection therewith constitute Big Rivers' valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement and the Alcan Wholesale Agreement by Big Rivers have been duly and effectively authorized by all requisite corporate action.

(c) As of the Effective Date, all consents, approvals, authorizations, actions or orders, including without limitation, those which must be obtained from Governmental Authorities and the RUS, required for its authorization, execution and delivery of, and for the consummation of the transactions contemplated by, this Agreement and the Alcan Wholesale Agreement have been obtained other than as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time, and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Big Rivers has no reason to believe will not be timely obtained.

(d) Subject to Section 6.1(c), its execution and delivery of this Agreement and the Alcan Wholesale Agreement, its consummation of the transactions contemplated by this Agreement and the Alcan Wholesale Agreement, and its fulfillment of and compliance with the terms and provisions hereof and thereof do not conflict with or violate any judicial or administrative order, award, judgment or decree applicable to it, or conflict with any of the terms, conditions or provisions of its Articles of Incorporation or Bylaws or any material instrument, mortgage, agreement, contract or restriction to which it is a party, or by which any of its properties are bound, or require the approval, consent or authorization of any federal, state or local court, or any of its creditors, or of any other Person, or give any party with rights under any such instrument, agreement, contract, mortgage, judgment, award, order or other restriction the right to terminate, modify or otherwise change its rights or obligations thereunder which has not been obtained.

6.2 Alcan. Alcan hereby represents and warrants to Big Rivers as follows:

(a) Alcan is a corporation duly organized and validly existing and in good standing under the laws of the State of Texas, is authorized to do business in the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

(b) This Agreement, the Alcan Retail Agreement and other agreements entered into by Alcan in connection therewith constitute Alcan's valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement and the Alcan Retail Agreement by Alcan have been duly and effectively authorized by all requisite corporate action.

(c) All consents, approvals, authorizations, actions or orders, including without limitation, those which must be obtained from governmental agencies or authorities, required for its authorization, execution and delivery of, and for the consummation of the transactions contemplated by, this Agreement and the Alcan Wholesale Agreement have been obtained.

(d) Its execution and delivery of this Agreement and the Alcan Retail Agreement, its consummation of the transactions contemplated by this Agreement and the Alcan Retail Agreement, and its fulfillment of and compliance with the terms and provisions hereof and thereof do not conflict with or violate any judicial or administrative order, award, judgment or decree applicable to it, or conflict with any of the terms, conditions or provisions of its Articles of Incorporation or Bylaws or any material instrument, mortgage, agreement, contract or restriction to which it is a party, or by which any of its properties are bound, or require the approval, consent or authorization of any federal, state or local court, or any of its creditors, or of any other Person, or give any party with rights under any such instrument, agreement, contract, mortgage, judgment, award, order or other restriction the right to terminate, modify or otherwise change its rights or obligations thereunder which has not been obtained.

7. Miscellaneous.

7.1 No Affect on Rights or Defenses. Nothing in this Agreement shall require performance by a Party of any of its obligations under the Alcan Retail Agreement or the Alcan Wholesale Agreement, as applicable, if it may assert, as a defense to its non-performance, any defenses or excuses to such performance that may be available to it under the provisions of the Alcan Retail Agreement or the Alcan Wholesale Agreement, or under Applicable Law.

7.2 Entire Agreement. This Agreement, the Alcan Retail Agreement, the Alcan Wholesale Agreement and the other agreements and documents denoted on Schedule 6.2.3 of the Alcan Retail Agreement constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements, whether oral or written. This Agreement may be amended only by a written document signed by each of the Parties hereto. Each Party acknowledges that it has not relied upon any representations, statements or warranties of the other Party in executing this Agreement except for those representations and warranties expressly set forth in the foregoing documents.

7.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of an subsequent breach of the same or any other term, covenant or condition contained herein.

7.4 Notices. A notice, consent, approval or other communication under this Agreement must be delivered in writing, addressed to the Person to whom it is to be delivered, and must be (a) personally delivered to that Person's address (which will include delivery by a nationally recognized overnight courier service), or (b) transmitted by facsimile to that Person's address, with a duplicate notice sent by a nationally recognized overnight courier service to that Person's address. A notice given to a Person in accordance with this Section will be deemed to have been delivered (i) if personally delivered to a Person's address, on the day of delivery if such day is a Business Day, or otherwise on the next Business Day, or (ii) if transmitted by facsimile to a Person's facsimile number and a correct and complete transmission report is received, or receipt is confirmed by telephone, on the day of transmission if a Business Day, otherwise on the next Business Day; *provided, however*, that such facsimile transmission will be followed on the same day with the sending to such Person of a duplicate notice by a nationally recognized overnight courier to that Person's address. For the purpose of this Section, the address of a Party is the address set out below or such other address which that Party may from time to time deliver by notice to the other Party in accordance with this Section:

If to Big Rivers: Big Rivers Electric Corporation
201 Third Street
Henderson, Kentucky 42420
Attn: President and CEO
Fax: [] (270) 827-2558

If to Alcan: Plant Manager
Sebree Smelter
Alcan Primary Products Corporation
9404 State Route 2096
Robards, Kentucky 42452
Fax: []

With copy to: Director of Energy
Rio Tinto Alcan
1188 Sherbrooke Street West
Montreal, Quebec H3A 3G2
Canada
Fax: []

7.5 Dispute Resolution. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting between an authorized representative of the other Party to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten Business Days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement. Absent such resolution, the Parties may pursue all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement to resolve that dispute. Notwithstanding the

provisions of this Section each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

7.6 Assignments and Transfers. No Party shall assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other Party, *provided, however*, that no prior consent shall be required with respect to an assignment to any person who is a permitted assignee of Alcan pursuant to the Alcan Retail Agreement or a permitted assignee of Big Rivers pursuant to the Alcan Wholesale Agreement. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

7.7 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

7.8 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement, *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue will lie for the resolution of any related disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC or any other Governmental Authority any matter properly within its jurisdiction.

7.9 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to fulfill its obligations under this Agreement, the Alcan Wholesale Agreement and the Alcan Retail Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned, or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably exercised. Where notice to the other Party is required to be given herein, and no notice period is specified, reasonable notice shall be given.

7.10 Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties and their respective successors and permitted assigns.

7.11 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

7.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement.

7.13 Kenergy Obligations Separate. Nothing contained in this Agreement shall obligate Alcan or Big Rivers for any obligations or liabilities of Kenergy, whether under or pursuant to the Alcan Retail Agreement, the Alcan Wholesale Agreement or otherwise.

7.14 No Power Sales Commitment. The Parties acknowledge that Big Rivers and Kenergy intend to enter into the Alcan Wholesale Agreement and Alcan and Kenergy intend to enter into the Alcan Retail Agreement which agreements contain the terms and conditions setting forth the wholesale sale of power by Big Rivers and the purchase of such power by Kenergy, and the corresponding retail sale of such power by Kenergy and the purchase of such power by Alcan. Nothing contained in this Agreement shall be deemed to be or create an agreement or commitment of Big Rivers to sell to Alcan, or an agreement of Alcan to purchase from Big Rivers, any electric energy or related services.

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name:
Title:

ALCAN PRIMARY PRODUCTS CORPORATION

By: _____
Name:
Title:

**COMPARISON OF CENTURY COORDINATION
AGREEMENT**

COORDINATION AGREEMENT

Dated as of [_____]

by and between

BIG RIVERS ELECTRIC CORPORATION

and

CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP

COORDINATION AGREEMENT

This COORDINATION AGREEMENT ("Agreement") is made and entered into as of [____], by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky rural electric cooperative ("Big Rivers"), and CENTURY ALUMINUM OF KENTUCKY GENERAL PARTNERSHIP, a Kentucky general partnership ("Century"). Big Rivers and Century are sometimes referred to herein collectively as the "Parties" and individually as a "Party."

RECITALS

A. Kenergy Corp., a Kentucky retail rural electric cooperative, currently supplies and delivers to Century, the owner and operator of an aluminum reduction plant in Hawesville, Kentucky, electric energy and related services pursuant to an Agreement for Electric Service, dated July 15, 1998, between Green River Electric Corporation, Kenergy's predecessor-in-interest, and Southwire Company, Century's predecessor in interest (the "Existing Century Agreement").

B. Kenergy currently purchases certain electric energy and related services for resale to Century from Western Kentucky Energy Corp., an affiliate of E. ON U.S., LLC, formerly known as LG&E Energy Corp. (together with such affiliates and parent, collectively, "LG&E") under an Agreement for Electric Service, dated as of July 15, 1998 (the "Kenergy/LG&E Contract").

C. Kenergy also currently purchases additional electric energy and related services for resale to Century, to serve the energy requirements of Century not provided by LG&E, from third-party suppliers, including Big Rivers.

D. The Existing Century Agreement and the Kenergy/LG&E Contract were entered into in connection with the consummation of a series of transactions implementing the First Amended Plan of Reorganization of Big Rivers, as part of which, among other things (i) Big Rivers leased its generating facilities to LG&E and (ii) Big Rivers entered into a power purchase arrangement with LG&E whereby LG&E supplied Big Rivers with electric energy and related services for resale to its Members.

E. Big Rivers and LG&E have agreed to terminate and unwind existing transactions among them relating to the lease by Big Rivers of its interest in its generating facilities to LG&E and the sale by LG&E of electric energy and related services to Big Rivers.

F. In connection with and as a condition to such termination and unwind transactions, Big Rivers has agreed to supply electric energy and related services to Kenergy for resale to Century pursuant to a wholesale power sales agreement, dated as of the date hereof (the "Century Wholesale Agreement").

G. Kenergy has agreed to supply a similar amount of electric energy and related services to Century pursuant to a retail electric service agreement, dated as of the date hereof (the "Century Retail Agreement").

H. Big Rivers, Kenergy and Century have further agreed that Century will make payments due under the Century Retail Agreement to a depository bank under a certain Security and Lockbox Agreement to be executed among Big Rivers, Kenergy, Century and a depository bank selected by those parties (the "Lockbox Agreement") or, under arrangements relating to sales of Energy by Third Party Suppliers to Kenergy for resale to Century to the depository under other similar lockbox arrangements among Kenergy, Century and the Third Party Supplier.

I. As a further condition to the execution and delivery of the Century Wholesale Agreement by Big Rivers, and the execution and delivery of the Century Retail Agreement by Century, respectively, the Parties desire to enter into this Agreement to coordinate the performance of their respective obligations under such agreements.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and their mutual covenants set forth herein, and for other good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, the Parties hereto agree as follows:

1. Definitions; Rules of Interpretations. Capitalized terms used in this Agreement and not defined herein have the meanings assigned to those terms in the Century Retail Agreement. The rules of interpretation set forth in Section 1.2 of the Century Retail Agreement shall apply to this Agreement as though fully set forth herein.

2. Term and Survival of Obligations. This Agreement shall commence on the date first written above, provided that the obligations of the Parties under Section 3 and Section 5 shall not commence until the Effective Date. This Agreement shall continue in effect until the Century Retail Agreement expires or is terminated in accordance with its terms. Notwithstanding the foregoing, any provision of this Agreement providing for payment from one party to the other for assignment of the right to collect and enforce collection of amounts due, or related to remedies for default, damage claims, or payment of other amounts will survive termination or expiration of this Agreement to the extent necessary for its enforcement and the protection of the Party in whose favor such provision exists.

3. Covenants and Agreements.

3.1 Century Retail Agreement. Century shall (i) fully perform and discharge all of its obligations under the Century Retail Agreement unless excused in accordance with the terms thereof; (ii) not act or rely upon any written or oral waivers granted by Kenergy of Century's performance under or compliance with provisions of the Century Retail Agreement that could be reasonably expected to materially adversely affect Big Rivers' rights or interests under the Century Wholesale Agreement without the prior written consent of Big Rivers; (iii) not waive the performance and discharge by Kenergy of its material obligations under the Century Retail Agreement without the prior written consent of Big Rivers; (iv) not amend or modify the Century Retail Agreement without the prior written consent of Big Rivers (the addition, deletion, modification or amendment of supplemental tariffs contemplated by the Century Retail Agreement which has been approved by the KPSC is deemed not to be an amendment or modification of the Century Retail Agreement for the purposes of this Section 3.1); (v) not

terminate or repudiate the Century Retail Agreement (including by rejection or similar termination in a bankruptcy proceeding involving Century) other than in accordance with the provisions thereof without the prior written consent of Big Rivers; (vi) make payments pursuant to the Century Retail Agreement when due and in accordance therewith and the Lockbox Agreement for so long as such agreements exist; (vii) not take any action or support any action by others that in any manner would impede Century's ability to fulfill its obligations to Kenergy or Big Rivers under the Century Retail Agreement or this Agreement or act in any manner that could reasonably be expected to materially adversely affect its ability to perform or discharge its obligations under this Agreement; (viii) provide Big Rivers with a copy of all notices sent to Kenergy pursuant to the Century Retail Agreement; and (ix) not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Century Retail Agreement except in accordance with Article 16 thereof; *provided*, that any transfer or assignment pursuant to Article 16 thereof which requires the consent or approval of Kenergy also shall require the consent of Big Rivers.

3.2 Century Wholesale Agreement. Big Rivers shall (i) fully perform and discharge all of its obligations under the Century Wholesale Agreement unless excused in accordance with the terms thereof; (ii) not act or rely upon any written or oral waivers granted by Kenergy of Big Rivers' performance under or compliance with provisions of the Century Wholesale Agreement that could be reasonably expected to materially adversely affect Century's rights or interests under the Century Retail Agreement without the prior written consent of Century; (iii) enforce the performance and discharge by Kenergy of its material obligations under the Century Wholesale Agreement and not waive the performance and discharge by Kenergy of its material obligations thereunder; (iv) not amend or modify the Century Wholesale Agreement without the prior written consent of Century (the addition, deletion, modification or amendment of supplemental tariffs contemplated by the Century Wholesale Agreement which has been approved by the KPSC is deemed not to be an amendment or modification of the Century Wholesale Agreement for the purposes of this Section 3.2); (v) not terminate or repudiate the Century Wholesale Agreement (including by rejection or similar termination in a bankruptcy proceeding involving Big Rivers) other than in accordance with the provisions thereof; (vi) not take any action or support any action by others that in any manner would impede Big Rivers' ability to fulfill its obligations to Kenergy or Century under the Century Wholesale Agreement or this Agreement or act in any manner that could reasonably be expected to materially adversely affect its ability to perform or discharge its obligations under this Agreement; (vii) provide Century with a copy of all notices sent to Kenergy pursuant to the Century Wholesale Agreement; and (viii) not assign or transfer (by operation of law or otherwise) any rights or interests that it may have in the Century Wholesale Agreement except in accordance with Article 16 thereof; *provided*, that any transfer or assignment pursuant to Article 16 thereof which requires the consent or approval of Kenergy also shall require the consent of Century.

3.3 Payments.

(a) ~~3.3 Assurances Agreement Payments.~~ Big Rivers shall pay Century upon the Effective Date an amount equal to \$139,423 less \$4,167 for each month after December 31, 2006 (calculated as of the 25th day of each month) (the "Assurances Agreement Payment") in lieu of amounts otherwise payable under Section 3(i) of the Assurances Agreement

between Century and LG&E Energy Marketing Inc., dated as of July 15, 1998. Big Rivers shall make the Assurances Agreement Payment to Century on the Effective Date; *provided*, that Big Rivers may credit all or any portion of the Assurances Agreement Payment against one or more invoices relating to the sale of electric energy or related services to Kenergy for resale to Century prior to the Effective Date.

(b) Big Rivers shall pay Century upon the Effective Date
\$3,969,000.

3.4 Budget.

(a) Big Rivers shall provide to Century for its review and evaluation (i) on or prior to the date 90 days prior to the end of each Fiscal Year, a copy of Big Rivers' then-current draft proposed annual capital and operating budget (the "Proposed Budget") for the following Fiscal Year, and (ii) any reasonably requested supporting information with respect to the Proposed Budget or expenditures in excess of the Budget.

(b) If requested by either Century or Alcan, Big Rivers and Century and, if the Alcan Retail Agreement is in effect, Alcan, shall jointly engage an independent expert (the "Independent Engineer") and shall agree on the scope of review required to evaluate the draft Proposed Budget. Big Rivers shall pay 50% and Century shall pay 50% of the fees and expenses of the Independent Engineer (or Century shall pay 25% if the Alcan Retail Agreement is in effect).

(c) Century shall have the opportunity to present the conclusions and recommendations of the Independent Engineer with respect to the Proposed Budget to the Coordinating Committee and to Big Rivers' Board of Directors as soon as reasonably practicable following the Independent Engineer's completion of the Proposed Budget evaluation.

(d) Big Rivers and Century will treat the reports, opinions and other work product of the Independent Engineer as confidential, proprietary business information that will not be publicly disclosed or offered as evidence in any regulatory or legal proceeding by Big Rivers, Kenergy or Century.

(e) On or prior to the last day of each Fiscal Year, Big Rivers shall provide Century copies of the final Budget for the following year. Big Rivers intends to use reasonable commercial efforts to keep its expenses each year within such year's Budget, but makes no representation that keeping its expenses within such year's Budget will be commercially feasible.

(f) Big Rivers shall provide Century notice if:

(i) Big Rivers (A) incurs or plans to incur \$4 million of capital expenditures in any Fiscal Year in excess of the capital expenditures in the Budget for such Fiscal Year, or (B) thereafter incurs or plans to incur an additional \$3 million of capital expenditures in excess of the capital expenditures in the Budget for such Fiscal Year; or

(ii) Big Rivers (A) incurs or plans to incur operating expenses in any Fiscal Year aggregating 2.5% in excess of Big Rivers' total operating expenses in the Budget for such Fiscal Year, or (B) thereafter, incurs or plans to incur an additional 1.25% of such total operating expenses in the Budget, excluding in each case expenses for fuel, environmental compliance or purchased power.

At the request of Century, the Coordinating Committee shall meet to discuss the causes of such capital expenditures or operating expenses in excess of the budgeted amounts and, after meeting with the Coordinating Committee, if further requested, Big Rivers shall permit Century to make one presentation to Big Rivers' Board with respect thereto.

3.5 Plan of Reorganization. The Parties acknowledge and agree that nothing in the Century Retail Agreement, the Century Wholesale Agreement, this Agreement or any document or agreement relating thereto may be construed to amend, affirm, waive or otherwise alter the terms of Schedule 5.4(a) of the Big Rivers' plan of reorganization, as modified June 1, 1998, or any document or agreement relating thereto regarding the obligation of Big Rivers to serve Kenergy for the benefit of Century; *provided*, that Century and Big Rivers disagree, notwithstanding the Unwind Transaction, as to the obligation of Big Rivers, in the absence of a new or amended contract, to serve Kenergy for the benefit of Century when the Existing Century Agreement terminates or when the Century Retail Agreement terminates. The Parties acknowledge that clarity on this issue is desired by both Parties so that necessary and appropriate capital planning and decision-making can be undertaken. The Parties agree to endeavor in good faith to resolve this disagreement prior to 2015.

3.6 Century Credit Support. Century shall (i) if the rating of the unenhanced, unsecured debt obligation of Century Parent with Standard & Poor's is not "A+" or higher (and in addition, if Century Parent has such a rating from Moody's, that rating with Moody's is not "A1" or higher), provide and maintain credit support in the form of a letter of credit from a bank rated "A+" or higher, or other credit support acceptable to Big Rivers and Kenergy, in an amount equal to the amounts estimated by Big Rivers to be due to Big Rivers and Kenergy with respect to Century's obligations under the Century Retail Agreement for a period of two months, and any amount which Big Rivers estimates reasonably could be due with respect to taxes relating to any sale of Energy pursuant to Section 4.13.3 as Economic Sales, Section 10.1 as Surplus Sales, Section 10.2 as Undeliverable Energy Sales or Section 10.3 as Potline Reduction Sales, in each case, of the Century Retail Agreement ("Potential Tax Liability"); and (ii) cause Century Parent to guarantee to Big Rivers and Kenergy payment and performance of all obligations of Century under the Century Retail Agreement, including Potential Tax Liability, and all obligations of Century under the other documents entered into by Century and its Affiliates in connection with the New Transaction pursuant to a Guarantee Agreement executed by Century Parent in favor of Big Rivers and Kenergy which shall be satisfactory in form and substance to Big Rivers (the "Century Guarantee"). At the request of Big Rivers, Century will maintain the Century Guarantee until closure of all applicable tax years of Big Rivers. At the request of Century, Big Rivers will provide Century with information as to the amount and calculation of the estimated Potential Tax Liability and reasonably detailed documentation in support thereof.

3.7 Transmission Upgrade. As soon as reasonably practicable, Big Rivers will develop, finance and construct improvements to its transmission facilities to permit Big Rivers to transmit to its border all Base Energy.

3.8 Proceedings Affecting Rates.

(a) The Parties acknowledge and agree that

(i) Big Rivers shall have the right to seek KPSC approval for changes to the Non-Smelter Member Rates, and FERC approval of changes to the OATT, from time to time, but Big Rivers shall not seek an increase in its base rates to take effect before January 1, 2010, excluding any roll-in to Big Rivers' base rates of costs that would otherwise be recovered by the Environmental Surcharge or the FAC, and

(ii) Big Rivers will not seek to implement a wholesale rate reduction other than the Rebate to its Members under the procedures available in KRS 278.455 without the consent of Century;

provided that this commitment by Big Rivers will have no effect on the availability to Big Rivers' Members of the procedures in KRS 278.455 to flow-through any wholesale rate decrease to the Non-Smelter Ratepayers.

(b) Century shall have the right to intervene and participate in any proceeding that may affect rates at the KPSC or FERC or before any other Governmental Authority. Neither Big Rivers nor Century will support or seek, directly or indirectly, from any Governmental Authority, including the KPSC, any challenge to or change in the rate formula set forth in the Century Wholesale Agreement or the Alcan Retail Agreement or other terms and conditions set forth therein, including the relationship of the Large Industrial Rate to amounts payable by Century pursuant to the Century Retail Agreement, except that any Party may initiate or intervene in a proceeding to (i) clarify, interpret or enforce the Century Wholesale Agreement or the Century Retail Agreement, or (ii) challenge the applicable rate for Transmission Services should those services be unbundled for purposes of calculating the Large Industrial Rate. For the avoidance of doubt, Century's intervention and participation in a regulatory proceeding involving cost of service issues relating to the rates of the Non-Smelter Ratepayers shall not be considered a challenge to the rate formula.

(c) If *Commonwealth of Kentucky ex rel. Gregory D. Stumbo, Attorney General v. Public Service Comm'n and Union Light, Heat and Power Co.*, Franklin Circuit Court, C.A. No. 06-CI-269, or any Applicable Law relating thereto restricts the amounts recovered under the FAC, Appendix A, or the Environmental Surcharge Rider, then Kenergy, Century, Big Rivers and, if the Alcan Retail Agreement is then in effect, Alcan, shall negotiate in good faith to amend this Agreement (and other agreements entered into in connection herewith) to restore the relative rights and economic benefits thereunder. If such parties are unable to reach an agreement on such amendments, then this Section 3.8 shall not restrict Big Rivers from seeking KPSC approval for an increase to its base rates or an amendment to the FAC, Appendix A, or the Environmental Surcharge Rider.

(d) Nothing in this Agreement shall limit or expand the jurisdiction of the KPSC or the FERC over Big Rivers or the rates, terms and conditions of electric service to Century pursuant to the Century Retail Agreement or otherwise.

(e) Big Rivers will provide Century a copy of any filing with the KPSC or FERC that seeks a change in Big Rivers' tariff or relief authorized by KRS 278.020, KRS 278.030, KRS 278.212, KRS 278.218, KRS 278.300, KRS 278.183 or 807 KAR 5:056.

3.9 Communications; Request for Meetings. Big Rivers will establish with Century procedures for the regular dissemination of information relating to the operational and financial performance of Big Rivers. If Century believes Big Rivers has or may incur unreasonable costs or expenses, Century may request in writing a meeting with Big Rivers' management to discuss such costs or expenses. Such meeting will take place within ten Business Days of the request but shall not be held more frequently than once per fiscal quarter. Nothing in this Section shall obligate Big Rivers to take any action as a result of such meeting.

3.10 Depreciation Rates.

(a) Big Rivers shall not modify its depreciation rates without the approval of or consent or acceptance by the KPSC or, if the KPSC no longer has jurisdiction over Big Rivers, by any other Governmental Authority having jurisdiction over such modification. Big Rivers will provide Century reasonable notice of the implementation of such modification together with reasonably detailed documentation describing such modification and an opportunity to discuss such modification with Big Rivers' management prior to the filing of an application for approval of the modification of such depreciation rates with the KPSC or other Governmental Authority having jurisdiction.

(b) Big Rivers shall not initiate a request to a Governmental Authority or RUS for changes to its depreciation rates that would be projected to cause the weighted average depreciation rates for the period from the Effective Date through December 31, 2016, to exceed the weighted average depreciation rates for the same period set forth in the Model; *unless* (1) Big Rivers determines in good faith, based on discussions with a nationally recognized statistical rating organization and after consultation with Century, that it is necessary to make such a modification to its depreciation rates in order to maintain an investment grade credit rating, (2) a Governmental Authority with jurisdiction or RUS directs Big Rivers to modify its depreciation rates, or (3) Big Rivers' independent auditors assert that they would not be able to deliver an unqualified audit opinion with respect to Big Rivers' financial statements as a result of Big Rivers' failure to seek or implement a modification of its depreciation rates. For purposes of this clause (b), Big Rivers' weighted average depreciation rates for the period from Effective Date through December 31, 2016, shall be the sum of its total depreciation expense for each year for that same period over the sum of the average gross depreciable plant for each year over that same period, with appropriate adjustments for partial years.

3.11 Audit Rights. Big Rivers will permit Century to audit, upon reasonable notice, at its own expense, at a mutually agreeable time, all information in the possession of Big Rivers relating to its service under the Century Wholesale Agreement to Kenergy for resale to Century, including scheduled deliveries, meter records, billing records, records related to

payments to Big Rivers and such other documents related to payment for and determination of the amount of electric energy, Transmission Services and other related services supplied by Big Rivers and delivered to Kenergy for resale and delivery to Century. Big Rivers shall retain all documentation applicable to service to Kenergy under the Century Wholesale Agreement for a period of three years. Nothing in this Section 3.11 shall obligate Big Rivers to provide attorney-client privileged information.

~~3.12 System Disturbance Agreement. The Parties hereby acknowledge and agree that the System Disturbance Agreement, dated as of July 15, 1998, among Big Rivers, WKE Station Two Inc., Western Kentucky Energy Corp., predecessors in interest to Kenergy, and the Smelters shall continue in effect with respect to Big Rivers, Kenergy and the Smelters (but not Southwire Company) during the term of the Service Period.~~ **Bylaw Amendments.**

(a) Subject to Section 3.12(b) and (c), Big Rivers agrees not to amend its Bylaws after the adoption of the amendment set forth in Section 13.4 of the Century Wholesale Agreement in a manner that adversely affects the rights of Century to receive patronage capital or other distributions from Big Rivers through Kenergy without the prior consent of Century.

(b) Notwithstanding Section 3.12(a), nothing in this Section 3.12 shall restrict Big Rivers' ability to amend its Bylaws (i) without the consent of Century if Big Rivers gives notice to Century of the proposed Bylaw amendment, together with a copy of such proposed amendment, and Century does not object to the proposed amendment within 60 days after the notice is delivered, (ii) with the consent of Century during the Consent Period (as defined in Section 3.12(c)), or (iii) without the consent of Century following the Consent Period.

3.13 The provisions of this Section 3.12 (and the obligations of the parties to notify the other Party of any change in its address pursuant to Section 7.4 hereof) shall survive for 10 years after the end of the Service Period (the "Consent Period") regardless of the termination or expiration of this Agreement.

~~3.14~~ **3-13-Operation of System.** Big Rivers shall operate its electric generation and transmission system for the mutual benefit of the Members and patrons consistent with Prudent Utility Practices, and will apply the same standards to operating decisions that may affect the Monthly Charge. Big Rivers will not use the payment obligation of Century under Section 4.7 (TIER Adjustment Charge) of the Century Retail Agreement as the substantive basis for making an operating decision.

~~3.15~~ **3-14-Property Rights.**

(a) Big Rivers' nonpatronage net earnings, after offset (if applicable) by any available tax loss carryforward amounts attributable to a deficit in nonpatronage net earnings from prior taxable years, shall, if positive, be retained by Big Rivers as a permanent source of equity and, if negative, shall be carried forward to be applied as an offset against future positive nonpatronage net earnings.

(b) Upon liquidation, the assets of Big Rivers shall be distributed in the following order: (i) all debts and obligations of Big Rivers shall be paid in accordance with lawful priorities, (ii) each Member's or other patron's capital account balance shall be paid without priority on a *pro rata* basis until all such capital accounts (as determined subsequent to adjusting such accounts by allocations of patronage net earnings for the year of liquidation exclusive of any gain arising from the liquidation) have been reduced to zero, and (iii) any remaining assets of Big Rivers shall be paid to the current and former Members or other patrons of Big Rivers based upon the amount of their historic patronage with Big Rivers measured by kilowatt-hours purchased from Big Rivers over the life of Big Rivers. The life of Big Rivers is defined to begin at the date Big Rivers was formed in 1961 and to continue uninterrupted through Big Rivers' bankruptcy reorganization to the date of liquidation.

(c) The provisions of this Section 3.14 shall survive the expiration or earlier termination of this Agreement.

3.16 ~~3.15~~ Big Rivers Capitalization Policy. To the extent consistent with Accounting Principles, Applicable Law and guidance of applicable Governmental Authorities or RUS, Big Rivers shall capitalize expenditures for the replacement of the items related to Big Rivers' generation facilities identified in the list of the retirement units set forth in the Schedule 3.15.

3.17 ~~3.16~~ Purchased Power Regulatory Account. Big Rivers will request KPSC to and, if the KPSC approves, shall (a) establish a regulatory account containing purchased power costs to be recovered by Big Rivers from the Members with respect to sales to their Non-Smelter Ratepayers in an amount equal to the sum of the Non-FAC Purchased Power Adjustment Factor in each month multiplied by the amount of Energy delivered in each month to the Members for such sales; and (b) establish the method of recovery of such amounts from Non-Smelter Ratepayers at each general rate adjustment case.

3.18 ~~3.17~~ Model. It is understood and agreed that (i) all financial and production cost models ("Model") including the Model filed with the KPSC in connection with the application for approval of the Unwind Transaction and the New Transaction have been developed solely by Big Rivers to provide its best estimate of the future operations of Big Rivers after the Unwind Transaction is consummated, and (ii) Century by executing this Agreement and consummating the Unwind Transaction is not indicating its agreement or disagreement with the forecasted work plans, assumptions or specific expenditures embedded in the Model.

4. Coordinating Committee.

4.1 The parties have agreed to the establishment of a committee ("Coordinating Committee"), consisting of representatives of the Members' chief executive officers, Century, Alcan, and Big Rivers management, organized for the purpose of reviewing, analyzing and discussing information relating to Big Rivers' operational and financial performance. The Coordinating Committee shall meet at least once each calendar quarter.

4.2 If the Coordinating Committee does not exist or does not function with the subject matter of this Section 4, then Big Rivers shall have the same obligations as to the Smelters, jointly.

4.3 At a minimum of once a year and at such other times as the Parties may agree, the members of the Coordinating Committee will establish a meeting with Big Rivers' board members. These meetings will be informal and the purpose of such meetings will be to discuss Big Rivers' operating and financial performances and plans, and issues affecting the electric utility and smelting industry operations.

4.4 The information to be discussed by the Coordinating Committee shall include (i) analysis criteria and procedures for evaluating plans, procedures, expenditures and maintenance programs, (ii) budgets, (iii) operations and capital expenditures, (iv) fuel procurement or supply, (v) comparison of actual performance to the Budget and an explanation of variances to the Budget, (vi) load forecasts and integrated resource plans, (vii) depreciation studies, proposed changes in depreciation rates and associated proposed changes in electric rates, and (viii) other activities, such as the timing and terms of refinancing the RUS debt or whether to join an independent transmission system operator, that may impact Big Rivers' operational and financial performance. Big Rivers shall provide the Coordinating Committee members any reasonably requested supporting information relating to the items discussed.

4.5 The activities of the Coordinating Committee shall be a standing report item on the agenda of the monthly meeting of the Big Rivers Board of Directors. From time to time, Century's representatives may make a request to the chairman of the Big Rivers Board of Directors that they be allowed to participate with management in making such report.

5. Cure Rights.

5.1 Notwithstanding any provision contained in the Century Retail Agreement that affords Century the right to terminate the Century Retail Agreement upon any breach or default by Kenergy thereunder, Century shall provide Big Rivers a reasonable opportunity, exercisable in Big Rivers' sole discretion, to cure any such breach or default by Kenergy prior to exercising such termination rights, which opportunity shall extend, at a minimum, for a period of not less than 10 Business Days after the later of (i) the date of expiration of the applicable period of time (if any) available for a cure by Kenergy under the Century Retail Agreement, and (ii) the date on which notice of the breach or default by Kenergy is delivered by Century to Big Rivers. Century hereby consents to any attempt by Big Rivers to cure any breaches or defaults by Century under the Century Retail Agreement that may hereafter occur, provided, that Big Rivers does not materially interfere with Century's attempts (if any) to so cure such breaches or defaults.

5.2 Notwithstanding any provision contained in the Century Wholesale Agreement that affords Big Rivers the right to terminate the Century Wholesale Agreement upon any breach or default by Kenergy thereunder, Big Rivers shall provide Century a reasonable opportunity, exercisable in Century's sole discretion, to cure any such breach or default by Kenergy prior to exercising such termination rights, which opportunity shall extend, at a minimum, for a period of not less than ten Business Days after the later of (i) the date of

expiration of the applicable period of time (if any) available for a cure by Kenergy under the Century Wholesale Agreement, and (ii) the date on which notice of the breach or default by Kenergy is delivered by Big Rivers to Century. Big Rivers hereby consents to any attempt by Century to cure any breaches or defaults by Big Rivers under the Century Wholesale Agreement that may hereafter occur, provided, that Century does not materially interfere with Big Rivers' attempts (if any) to so cure such breaches or defaults.

6. Representations and Warranties.

6.1 Big Rivers. Big Rivers hereby represents and warrants to Century as follows:

(a) Big Rivers is an electric generation and transmission cooperative corporation duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement and the Century Wholesale Agreement, to perform its obligations hereunder and thereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

(b) Subject to Section 6.1(c), this Agreement, the Century Wholesale Agreement and other agreements entered into by Big Rivers in connection therewith constitute Big Rivers' valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement and the Century Wholesale Agreement by Big Rivers have been duly and effectively authorized by all requisite corporate action.

(c) As of the Effective Date, all consents, approvals, authorizations, actions or orders, including without limitation, those which must be obtained from Governmental Authorities and the RUS, required for its authorization, execution and delivery of, and for the consummation of the transactions contemplated by, this Agreement and the Century Wholesale Agreement have been obtained other than as may be required under Applicable Law to be obtained, given, accomplished or renewed at any time or from time to time, and which are routine in nature or which cannot be obtained, or are not normally applied for, prior to the time they are required and which Big Rivers has no reason to believe will not be timely obtained.

(d) Subject to Section 6.1(c), its execution and delivery of this Agreement and the Century Wholesale Agreement, its consummation of the transactions contemplated by this Agreement and the Century Wholesale Agreement, and its fulfillment of and compliance with the terms and provisions hereof and thereof do not conflict with or violate any judicial or administrative order, award, judgment or decree applicable to it, or conflict with any of the terms, conditions or provisions of its Articles of Incorporation or Bylaws or any material instrument, mortgage, agreement, contract or restriction to which it is a party, or by which any of its properties are bound, or require the approval, consent or authorization of any federal, state or local court, or any of its creditors, or of any other Person, or give any party with rights under any such instrument, agreement, contract, mortgage, judgment, award, order or other

restriction the right to terminate, modify or otherwise change its rights or obligations thereunder which has not been obtained.

6.2 Century. Century hereby represents and warrants to Big Rivers as follows:

(a) Century is a general partnership duly organized and validly existing and in good standing under the laws of the Commonwealth of Kentucky and is authorized to do business in the Commonwealth of Kentucky, and has the power and authority to execute and deliver this Agreement, to perform its obligations hereunder, and to carry on its business as it is now being conducted and as it is contemplated hereunder to be conducted during the term hereof.

(b) This Agreement, the Century Retail Agreement and other agreements entered into by Century in connection therewith constitute Century's valid and binding obligation enforceable against it in accordance with their terms, except as enforceability may be affected by bankruptcy, insolvency or other similar laws affecting creditors' rights generally and by general equitable principles. The execution, delivery and performance of this Agreement and the Century Retail Agreement by Century have been duly and effectively authorized by all requisite partner action.

(c) All consents, approvals, authorizations, actions or orders, including without limitation, those which must be obtained from governmental agencies or authorities, required for its authorization, execution and delivery of, and for the consummation of the transactions contemplated by, this Agreement and the Century Wholesale Agreement have been obtained.

(d) Its execution and delivery of this Agreement and the Century Retail Agreement, its consummation of the transactions contemplated by this Agreement and the Century Retail Agreement, and its fulfillment of and compliance with the terms and provisions hereof and thereof do not conflict with or violate any judicial or administrative order, award, judgment or decree applicable to it, or conflict with any of the terms, conditions or provisions of its partnership agreement or any material instrument, mortgage, agreement, contract or restriction to which it is a party, or by which any of its properties are bound, or require the approval, consent or authorization of any federal, state or local court, or any of its creditors, or of any other Person, or give any party with rights under any such instrument, agreement, contract, mortgage, judgment, award, order or other restriction the right to terminate, modify or otherwise change its rights or obligations thereunder which has not been obtained.

7. Miscellaneous.

7.1 No Affect on Rights or Defenses. Nothing in this Agreement shall require performance by a Party of any of its obligations under the Century Retail Agreement or the Century Wholesale Agreement, as applicable, if it may assert, as a defense to its non-performance, any defenses or excuses to such performance that may be available to it under the provisions of the Century Retail Agreement or the Century Wholesale Agreement, or under Applicable Law.

7.2 Entire Agreement. This Agreement, the Century Retail Agreement, the Century Wholesale Agreement and the other agreements and documents denoted on Schedule 6.2.3 of the Century Retail Agreement constitute the entire agreement of the Parties hereto with respect to the subject matter hereof and supersede all prior agreements, whether oral or written. This Agreement may be amended only by a written document signed by each of the Parties hereto. Each Party acknowledges that it has not relied upon any representations, statements or warranties of the other Party in executing this Agreement except for those representations and warranties expressly set forth in the foregoing documents.

7.3 Waiver. The waiver by either Party of any breach of any term, covenant or condition contained herein will not be deemed a waiver of any other term, covenant or condition, nor will it be deemed a waiver of an subsequent breach of the same or any other term, covenant or condition contained herein.

7.4 Notices. A notice, consent, approval or other communication under this Agreement must be delivered in writing, addressed to the Person to whom it is to be delivered, and must be (a) personally delivered to that Person's address (which will include delivery by a nationally recognized overnight courier service), or (b) transmitted by facsimile to that Person's address, with a duplicate notice sent by a nationally recognized overnight courier service to that Person's address. A notice given to a Person in accordance with this Section will be deemed to have been delivered (i) if personally delivered to a Person's address, on the day of delivery if such day is a Business Day, or otherwise on the next Business Day, or (ii) if transmitted by facsimile to a Person's facsimile number and a correct and complete transmission report is received, or receipt is confirmed by telephone, on the day of transmission if a Business Day, otherwise on the next Business Day; *provided, however*, that such facsimile transmission will be followed on the same day with the sending to such Person of a duplicate notice by a nationally recognized overnight courier to that Person's address. For the purpose of this Section, the address of a Party is the address set out below or such other address which that Party may from time to time deliver by notice to the other Party in accordance with this Section:

If to Big Rivers: Big Rivers Electric Corporation
 201 Third Street
 Henderson, Kentucky 42420
 Attn: President and CEO
 Fax: [] (270) 827-2558

If to Century: Century Aluminum Company
 P.O. Box 500
 State Route 271 North
 Hawesville, Kentucky 42348
 Attn: Plant Manager
 Fax: (270) 852-2882

With copy to: Century Aluminum Company
2511 Garden Road
Building A, Suite 200
Monterey, CA 93940
Attn: General Counsel
Fax: (831) 642-9328

7.5 Dispute Resolution. If a dispute arises between the Parties concerning the terms or conditions of this Agreement, the duties or obligations of the Parties under this Agreement, or the implementation, interpretation or breach of this Agreement, either Party may request in writing a meeting between an authorized representative of the other Party to discuss and attempt to reach a resolution of the dispute. Such meeting will take place within ten Business Days or such shorter or longer time as agreed upon by the Parties of the request. Nothing in this Section shall toll or extend the cure period with respect to the failure by a Party to perform its obligations under this Agreement. Absent such resolution, the Parties may pursue all rights and remedies that they may have at law, in equity or pursuant to this Agreement subject to the limitations set forth in this Agreement to resolve that dispute. Notwithstanding the provisions of this Section each Party may at all times seek injunctive relief, where its delay in doing so could result in irreparable injury.

7.6 Assignments and Transfers. No Party shall assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of the other Party, *provided, however*, that no prior consent shall be required with respect to an assignment to any person who is a permitted assignee of Century pursuant to the Century Retail Agreement or a permitted assignee of Big Rivers pursuant to the Century Wholesale Agreement. Either Party may, without the approval of the other Party, assign this Agreement as collateral security or grant one or more mortgages (including one or more deeds of trust or indentures) on or security interests in its interest under this Agreement in connection with the general financing of its assets or operations.

7.7 Governing Law. This Agreement shall be interpreted, governed by and construed under the laws of the Commonwealth of Kentucky, without regard to its conflicts of law rules.

7.8 Jurisdiction. The Parties hereby agree that the courts of the Commonwealth of Kentucky will have exclusive jurisdiction over each and every judicial action brought under or in relationship to this Agreement, *provided* that the subject matter of such dispute is not a matter reserved by law to the KPSC, or to the U.S. federal judicial system (in which event exclusive jurisdiction and venue will lie with the U.S. District Court for the Western District of Kentucky), and the Parties hereby agree to submit to the jurisdiction of Kentucky courts for such purpose. Venue in state court actions will be in the Henderson Circuit Court as the court in which venue will lie for the resolution of any related disputes under this Agreement. Nothing in this paragraph prohibits a Party from referring to FERC or any other Governmental Authority any matter properly within its jurisdiction.

7.9 Good Faith Efforts. The Parties agree that each will in good faith take all reasonable actions within their reasonable control as are necessary to permit the other Party to

fulfill its obligations under this Agreement, the Century Wholesale Agreement and the Century Retail Agreement; *provided* that no Party will be obligated to expend money or incur material economic loss in order to facilitate performance by the other Party. Where the consent, agreement, or approval of either Party must be obtained hereunder, such consent, agreement or approval may not be unreasonably withheld, conditioned, or delayed unless otherwise provided herein. Where either Party is required or permitted to act or fail to act based upon its opinion or judgment, such opinion or judgment may not be unreasonably exercised. Where notice to the other Party is required to be given herein, and no notice period is specified, reasonable notice shall be given.

7.10 Successors and Assigns. This Agreement shall be binding upon, and shall inure to the benefit of and be enforceable by, the Parties and their respective successors and permitted assigns.

7.11 Headings. The headings contained in this Agreement are solely for convenience and do not constitute a part of the agreement between the Parties, nor should such headings be used to aid in any manner in the construction of this Agreement.

7.12 Third-Party Beneficiaries. Nothing in this Agreement may be construed to create any duty to, or standard of care with reference to, or any liability to, or any benefit for, any person not a Party to this Agreement.

7.13 Kenergy Obligations Separate. Nothing contained in this Agreement shall obligate Century or Big Rivers for any obligations or liabilities of Kenergy, whether under or pursuant to the Century Retail Agreement, the Century Wholesale Agreement or otherwise.

7.14 No Power Sales Commitment. The Parties acknowledge that Big Rivers and Kenergy intend to enter into the Century Wholesale Agreement and Century and Kenergy intend to enter into the Century Retail Agreement which agreements contain the terms and conditions setting forth the wholesale sale of power by Big Rivers and the purchase of such power by Kenergy, and the corresponding retail sale of such power by Kenergy and the purchase of such power by Century. Nothing contained in this Agreement shall be deemed to be or create an agreement or commitment of Big Rivers to sell to Century, or an agreement of Century to purchase from Big Rivers, any electric energy or related services.

IN WITNESS WHEREOF, this Agreement is hereby executed as of the day and year first above written.

BIG RIVERS ELECTRIC CORPORATION

By: _____
Name:
Title:

CENTURY ALUMINUM OF KENTUCKY
GENERAL PARTNERSHIP

By: _____
Name:
Title: