

SULLIVAN, MOUNTJOY, STAINBACK & MILLER PSC

ATTORNEYS AT LAW

Ronald M. Sullivan
Jesse T. Mountjoy
Frank Stainback
James M. Miller
Michael A. Fiorella
Allen W. Holbrook
R. Michael Sullivan
Bryan R. Reynolds
Tyson A. Kamuf
Mark W. Starnes
C. Ellsworth Mountjoy
Susan Montalvo-Gesser

April 1, 2010

RECEIVED
APR 02 2010
PUBLIC SERVICE
COMMISSION

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

Re: An Examination of the Application of the Fuel Adjustment Clause of
Big Rivers Electric Corporation from July 17, 2009, through October
31, 2009, P.S.C. Case No. 2009-00510

Dear Mr. DeRouen:

Enclosed for filing on behalf of Big Rivers Electric Copy are its responses to four requests for information made at the March 23, 2010, hearing in this matter and a petition for confidential treatment. The response to Item 4 is being filed pursuant to the petition for confidential treatment. An original and 10 copies of the first three responses are enclosed, along with an original and 10 copies of the response to Item 4 with the confidential information redacted. One sealed copy of the response to Item 4 with the confidential information highlighted is attached to the petition for confidential treatment.

Sincerely yours,



Tyson Kamuf
Counsel for Big Rivers Electric Corporation


Enclosures

Telephone (270) 926-4000
Telecopier (270) 683-6694

100 St. Ann Building
PO Box 727
Owensboro, Kentucky
42302-0727

VERIFICATION


I, Mark W. McAdams, Director-Fuels Procurement of Big Rivers Electric Corporation, verify, state, and affirm that I prepared or supervised the preparation of the data request responses filed with this Verification for which I am listed as a witness, and that those responses are true and accurate to the best of my knowledge, information, and belief formed after a reasonable inquiry.



Mark W. McAdams

COMMONWEALTH OF KENTUCKY)
COUNTY OF HENDERSON)

SUBSCRIBED AND SWORN TO before me by Mark W. McAdams on this the 31st day of March, 2010.



Notary Public, Ky. State at Large
My Commission Expires 2/22/2014
Notary ID 414353

RESPONSE OF BIG RIVERS ELECTRIC CORPORATION
TO COMMISSION STAFF MARCH 23, 2010
POST-HEARING DATA REQUESTS
PSC CASE NO. 2009-00510
MARCH 31, 2010

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Item 1 *Please refer to Big Rivers' response to Item 8. Provide the cost of coal in dollars-per-ton as requested in the original data request.*

Response) Please find attached revisions to Item 8 to include the cost of coal in dollars-per-ton and to include any escalation as requested in the original data request.

Witness) Mark W. McAdams

Attachment to Response to Question No. 8
Page 1 of 13
McAdams

A NAME/ADDRESS: Alliance Coal, LLC
1717 South Boulder Avenue
Tulsa, Oklahoma 74119

B PRODUCTION FACILITY: Cardinal Mine
Hopkins County, Kentucky

C CONTRACT EXECUTED DATE: May 1, 2007
July 17, 2009 – assumed by Big Rivers

D CONTRACT DURATION: December 31, 2009

E CONTRACT AMENDMENTS: None

F ANNUAL TONNAGE REQUIREMENTS: 2009 – 457,534 tons (1,000,000 / 365 X 167)

G ACTUAL TONNAGE: 2009 - 317,061

H PERCENT OF ANNUAL REQUIREMENTS: 2009 – 69.29%

I. BASE PRICE: 2009 – Delivery Option A Sebree - \$1 6012/mmbtu
Delivery Option A Energy - \$1 5882/mmbtu
Delivery Option B Sebree - \$1 5799/mmbtu
Delivery Option B Energy - \$1 5621/mmbtu
Delivery Option C Sebree - \$1 5586/mmbtu
Delivery Option C Energy - \$1 5403/mmbtu

J. ESCALATIONS TO DATE: None

Delivery Option A Sebree May - July
Delivery Option A Energy May - July
Delivery Option B Sebree May - July
Delivery Option B Energy May - July
Delivery Option C Sebree May - July
Delivery Option C Energy May - July

Delivery Option A Sebree August - October
Delivery Option A Energy August - October
Delivery Option B Sebree August - October
Delivery Option B Energy August - October
Delivery Option C Sebree August - October
Delivery Option C Energy August - October

Delivery Option A Sebree November - December
Delivery Option A Energy November - December
Delivery Option B Sebree November - December
Delivery Option B Energy November - December
Delivery Option C Sebree November - December
Delivery Option C Energy November - December

K CURRENT CONTRACT PRICE: 2009 – Delivery Option A Sebree - \$1 6012/mmbtu
Delivery Option A Energy - \$1 5882/mmbtu
Delivery Option B Sebree - \$1 5799/mmbtu
Delivery Option B Energy - \$1 5621/mmbtu
Delivery Option C Sebree - \$1 5586/mmbtu
Delivery Option C Energy - \$1 5403/mmbtu

REVISED			
\$/mmbtu	Guranteed BTU		\$/Ton
1.6012	12300	\$	39.39
1.5882	12300	\$	39.07
1.5799	12000	\$	37.92
1.5621	12000	\$	37.49
1.5586	11700	\$	36.47
1.5403	11700	\$	36.04

Diesel Fuel Escalation			
\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
-0.0095	12300	(0.2337)	\$ 39.16
-0.0095	12300	(0.2337)	\$ 38.84
-0.0095	12000	(0.2280)	\$ 37.69
-0.0095	12000	(0.2280)	\$ 37.26
-0.0095	11700	(0.2223)	\$ 36.25
-0.0095	11700	(0.2223)	\$ 35.82

\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
-0.0049	12300	(0.1205)	\$ 39.27
-0.0049	12300	(0.1205)	\$ 38.95
-0.0049	12000	(0.1176)	\$ 37.80
-0.0049	12000	(0.1176)	\$ 37.37
-0.0049	11700	(0.1147)	\$ 36.36
-0.0049	11700	(0.1147)	\$ 35.93

\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
-0.0017	12300	(0.0418)	\$ 39.35
-0.0017	12300	(0.0418)	\$ 39.03
-0.0017	12000	(0.0408)	\$ 37.88
-0.0017	12000	(0.0408)	\$ 37.45
-0.0017	11700	(0.0398)	\$ 36.43
-0.0017	11700	(0.0398)	\$ 36.00

\$/mmbtu	Guranteed BTU		\$/Ton
1.6012	12300	\$	39.35
1.5882	12300	\$	39.03
1.5799	12000	\$	37.88
1.5621	12000	\$	37.45
1.5586	11700	\$	36.43
1.5403	11700	\$	36.00

A NAME/ADDRESS: Coal Network Inc Rust Mining LLC
1111 Western Row Road PO Box 72
Mason, Ohio 45040 Beaver Dam, KY 42320

B PRODUCTION FACILITY: Somerville Mine
Gibson County, Indiana

C CONTRACT EXECUTED DATE: March 1, 2009
July 17, 2009 – assumed by Big Rivers

D CONTRACT DURATION: March 31, 2012

E CONTRACT AMENDMENTS: None

F ANNUAL TONNAGE REQUIREMENTS: 2009 – 102,945 tons (225,000 / 365 X 167)
2010 – 360,000 tons
2011 – 360,000 Tons
2012 – 75,000 tons

G ACTUAL TONNAGE: 2009 – 99,115

H PERCENT OF ANNUAL REQUIREMENTS: 2009 – 96.28%

I. BASE PRICE: Wilson & Island Dock (FOB Barge)
2009 - \$2 5435/mmbtu
2010 - \$2 5943/mmbtu
2011 - \$2 6462/mmbtu
2012 - \$2 6462/mmbtu

Green (FOB Barge)
2009 - \$2,7305/mmbtu
2010 - \$2 7813/mmbtu
2011 - \$2 8332/mmbtu
2012 - \$2 8332/mmbtu

REVISED			
	\$/mmbtu	Guranteed BTU	\$/Ton
2009	1.96	11,350	\$ 44.50 * Amendment One
2010	2.5943	11,500	\$ 49.72
2011	2.6462	11,500	\$ 50.72
2012	2.6462	11,500	\$ 50.72

	\$/mmbtu	Guranteed BTU	\$/Ton
2009	2.7305	11,500	\$ 52.33
2010	2.7813	11,500	\$ 53.31
2011	2.8332	11,500	\$ 54.30
2012	2.8332	11,500	\$ 54.30

J. ESCALATIONS TO DATE: None

K. CURRENT CONTRACT PRICE: Wilson & Island Dock (FOB Barge)
2009 - \$2 5435/mmbtu

Green (FOB Barge)
2009 - \$2 7305/mmbtu

REVISED			
	\$/mmbtu	Guranteed BTU	\$/Ton
2009	1.9600	11,300	\$ 44.50 * Amendment One
2010	2.5943	11,500	\$ 49.72
2011	2.6462	11,500	\$ 50.72
2012	2.6462	11,500	\$ 50.72

	\$/mmbtu	Guranteed BTU	\$/Ton
2009	2.7305	11,500	\$ 52.33
2010	2.7813	11,500	\$ 53.31
2011	2.8332	11,500	\$ 54.30
2012	2.8332	11,500	\$ 54.30

Attachment to Response to Question No. 8
Page 3 of 13
McAdams

- A. NAME/ADDRESS: Foresight Coal Sales, LLC
3801 PGA Boulevard
Palm Beach Gardens, Florida 33410
- B. PRODUCTION FACILITY: Shay #1 Mine
Macoupin County, Illinois
- C. CONTRACT EXECUTED DATE: March 20, 2009
July 17, 2009 – assumed by Big Rivers
- D. CONTRACT DURATION: December 31, 2010
- E. CONTRACT AMENDMENTS: None
- F. ANNUAL TONNAGE REQUIREMENTS: 2009 – 114,384 tons (250,000 / 365 X 167)
2010 – 250,000 tons
- G. ACTUAL TONNAGE: 2009 – 0 tons
- H. PERCENT OF ANNUAL REQUIREMENTS: 2009 – 0%

I. BASE PRICE:	<u>FOB Barge</u>	REVISED		
		<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
	2009 - \$2.8774/mmbtu	2009	2.8774	10,600 \$ 61.00
	2010 - \$2.8774/mmbtu	2010	2.8774	10,600 \$ 61.00

J. ESCALATIONS TO DATE: None

K. CURRENT CONTRACT PRICE:	<u>FOB Barge</u>			
		<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
	2009 - \$2.8774/mmbtu	2009	2.8774	10,600 \$ 61.00

Attachment to Response to Question No. 8
Page 4 of 13
McAdams

A. NAME/ADDRESS: Phoenix/Charolais Coal Corporation
1215 Nebo Road
Madisonville, Kentucky 42431

B. PRODUCTION FACILITY: Schoate Preparation Plant
Muhlenberg County, Kentucky

C. CONTRACT EXECUTED DATE: December 31, 2007
July 17, 2009 – assumed by Big Rivers

D. CONTRACT DURATION: September 30, 2009

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: Quality A
2009 – 41,096 tons (200,000 / 365 X 75)
Quality B
2009 – 61,644 tons (300,000 / 365 X 75)

G. ACTUAL TONNAGE: Quality A
2009 – 47,412 tons
Quality B
2009 – 74,771 tons

H. PERCENT OF ANNUAL REQUIREMENTS: Quality A
2009 – 115.37%
Quality B
2009 – 121.29%

I. BASE PRICE: Quality A – FOB Truck
2009 – \$1 4935/mmbtu
Quality B - FOB Truck
2009 – \$1 4626/mmbtu

		REVISED		
		\$/mmbtu	Guranteed BTU	\$/Ton
Quality A		1.4935	11300	\$ 33.75
Quality B		1.4626	10500	\$ 30.71

J. ESCALATIONS TO DATE: None

		Diesel Fuel Escalation			
		\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
July	Quality A	-0.1122	11300	(2.5357)	\$ 31.22
July	Quality B	-0.0968	10500	(2.0328)	\$ 28.68
		\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
Aug - Oct	Quality A	-0.0818	11300	(1.8487)	\$ 31.90
Aug - Oct	Quality B	-0.0705	10500	(1.4805)	\$ 29.23

K. CURRENT CONTRACT PRICE: Quality A – FOB Truck
2009 – \$1 4935/mmbtu
Quality B - FOB Truck
2009 – \$1 4626/mmbtu

		REVISED		
		\$/mmbtu	Guranteed BTU	\$/Ton
Quality A		1.4935	11300	\$ 31.90
Quality B		1.4626	10500	\$ 29.23

Attachment to Response to Question No. 8
Page 5 of 13
McAdams

A. NAME/ADDRESS: Phoenix/R & L Winn Inc
 1215 Nebo Road
 Madisonville, Kentucky 42431

B. PRODUCTION FACILITY: Back in Black Mine
 Muhlenberg County, Kentucky

C. CONTRACT EXECUTED DATE: March 6, 2006
 July 17, 2009 – assumed by Big Rivers

D. CONTRACT DURATION: September 30, 2009

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: 2009 – 36,986 tons (180,000 / 365 X 75)

G. ACTUAL TONNAGE: 2009 – 96,153 tons

H. PERCENT OF ANNUAL REQUIREMENTS: 259.97%

I. BASE PRICE: FOB Truck - \$1 5287/mmbtu

J. ESCALATIONS TO DATE: None

REVISED		
\$/mmbtu	Guranteed BTU	\$/Ton
1.5287	11,000 \$	33.63

Diesel Fuel Escalation		
	Deisel Fuel \$/Ton	\$/Ton
July	1.06 \$	34.69
August	2.18 \$	35.81
September	1.98 \$	35.61

K. CURRENT CONTRACT PRICE: FOB Truck - \$1 5287/mmbtu

\$/mmbtu	Guranteed BTU	\$/Ton
1.5287	11,000 \$	35.61

Attachment to Response to Question No. 8
Page 6 of 13
McAdams

A. NAME/ADDRESS: Oxford Mining Company(Phoenix/Charolais)
544 Chestnut Street
Coshocton, Ohio 43812

B. PRODUCTION FACILITY: Schoate Preparation Plant
Muhlenberg County, Kentucky

C. CONTRACT EXECUTED DATE: October 1, 2009

D. CONTRACT DURATION: December 31, 2011

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: Quality A
2009 – 50,411 tons (200,000 / 365 X 92)
2010 – 450,000 tons
2011 – 450,000 tons
Quality B
2009 – 75,616 tons (300,000 / 365 X 92)
2010 – 300,000 tons
2011 – 300,000 tons

G. ACTUAL TONNAGE: Quality A
2009 – 0 tons
Quality B
2009 – 35,115 tons

H. PERCENT OF ANNUAL REQUIREMENTS: Quality A
2009 – 0%
Quality B
2009 – 46.44%

Attachment to Response to Question No. 8

Page 7 of 13

McAdams

I. BASE PRICE:

Quality A - FOB Truck

2009 – \$1.4935/mmbtu

2010 - \$1.5383/mmbtu

2011 - \$1.5850/mmbtu

Quality B - FOB Truck

2009 – \$1.4626/mmbtu

2010 - \$1.5065/mmbtu

2011 - \$1.5517/mmbtu

REVISED

	<u>\$/mmbtu</u>	<u>Warranted B</u>	<u>\$/Ton</u>
Quality A	1.4935	11,300	\$ 33.75
	1.5383	11,300	\$ 34.77
	1.5850	11,300	\$ 35.82
Quality B	1.4626	10,500	\$ 30.71
	1.5065	10,500	\$ 31.64
	1.5517	10,500	\$ 32.59

J. ESCALATIONS TO DATE:

None

K. CURRENT CONTRACT PRICE:

Quality A – FOB Truck

2009 – \$1.4935/mmbtu

Quality B - FOB Truck

2009 – \$1.4626/mmbtu

	<u>\$/mmbtu</u>	<u>Warranted B</u>	<u>\$/Ton</u>
Quality A	1.4935	11,300	\$ 33.75
	1.5383	11,300	\$ 34.77
	1.5850	11,300	\$ 35.82
Quality B	1.4626	10,500	\$ 30.71
	1.5065	10,500	\$ 31.64
	1.5517	10,500	\$ 32.59

A NAME/ADDRESS. Oxford Mining Company (Phoenix/R&L Winn)
 544 Chestnut Street
 Coshocton, Ohio 43812

B. PRODUCTION FACILITY. Back in Black Mine
 Muhlenberg County, Kentucky

C CONTRACT EXECUTED DATE: October 1, 2009

D CONTRACT DURATION: December 31, 2009

E CONTRACT AMENDMENTS: None

F ANNUAL TONNAGE REQUIREMENTS: 2009 –45,370 tons (180,000 / 365 X 92)

G ACTUAL TONNAGE. 2009 – 38,630 tons

H PERCENT OF ANNUAL REQUIREMENTS: 85 14%

I. BASE PRICE: FOB Truck - \$1 5287/mmbtu

REVISED		
\$/mmbtu	Guranteed BTU	\$/Ton
1.5287	11,000 \$	33.63

J. ESCALATIONS TO DATE. None

Diesel Fuel Escalation		
	Diesel Fuel \$/Ton	\$/Ton
October	1.94 \$	35.57
November	0 \$	33.63
December	0 \$	33.63

K. CURRENT CONTRACT PRICE: FOB Truck - \$1 5287/mmbtu

\$/mmbtu	Guranteed BTU	\$/Ton
1.5287	11,000 \$	33.63

Attachment to Response to Question No. 8
Page 9 of 13
McAdams

A. NAME/ADDRESS: PBP Energy, LLC
PO Box 783
Greenville, Kentucky 42345

B. PRODUCTION FACILITY: Burden No. 2 Mine
Muhlenberg County, Kentucky

C. CONTRACT EXECUTED DATE: July 17, 2009

D. CONTRACT DURATION: December 31, 2013

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: 2009 – 109,808 tons (240,000 / 365 X 167)
2010 – 240,000 tons
2011 – 240,000 tons
2012 – 240,000 tons
2013 – 240,000 tons

G. ACTUAL TONNAGE: 2009 – 34,619 tons

H. PERCENT OF ANNUAL REQUIREMENTS: 31.53%

I. BASE PRICE:

	REVISED		
	\$/mmbtu	Guranteed BTU	\$/Ton
<u>FOB Truck - Wilson</u>			
2009 - \$1.7048/mmbtu	1.7048	10,500	\$ 35.80
2010 - \$1.7962/mmbtu	1.7962	10,500	\$ 37.72
2011 - \$1.8933/mmbtu	1.8933	10,500	\$ 39.76
2012 – Reopener			
2013 – Reopener			
<u>FOB Truck – Green</u>			
2009 - \$1.8500/mmbtu	1.85	10,500	\$ 38.85
2010 - \$1.9414/mmbtu	1.9414	10,500	\$ 40.77
2011 - \$2.0386/mmbtu	2.0386	10,500	\$ 42.81
2012 – Reopener			
2013 – Reopener			

J. ESCALATIONS TO DATE:

None

Diesel Fuel Escalation				
FOB Truck - Wilson	\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
July-Sept	-0.1111	10,500	(2.3331)	\$ 33.47
Oct - Dec	-0.0948	10,500	(1.9908)	\$ 33.81

Diesel Fuel Escalation				
FOB Truck - Green	\$/mmbtu	Guranteed BTU	Deisel Fuel \$/Ton	\$/Ton
July-Sept	-0.1111	10,500	(2.3331)	\$ 36.52
Oct - Dec	-0.0948	10,500	(1.9908)	\$ 36.86

K. CURRENT CONTRACT PRICE:

	\$/mmbtu	Guranteed BTU	\$/Ton
<u>FOB Truck - Wilson</u>			
2009 - \$1.7048/mmbtu	1.7048	10,500	\$ 33.81
<u>FOB Truck – Green</u>			
2009 - \$1.8500/mmbtu	1.85	10,500	\$ 36.86

Attachment to Response to Question No. 8
Page 10 of 13
McAdams

- A. NAME/ADDRESS: CoalSales, LLC
701 Market Street
St. Louis, Missouri 63101
- B. PRODUCTION FACILITY: Willow Lake Central Mine
Saline County, Illinois
- C. CONTRACT EXECUTED DATE: July 17, 2009
- D. CONTRACT DURATION: December 31, 2010
- E. CONTRACT AMENDMENTS: None
- F. ANNUAL TONNAGE REQUIREMENTS: 2009 –228,767 tons (500,000 / 365 X 167)
2010 – 500,000 tons
- G. ACTUAL TONNAGE: 2009 – 139,893 tons
- H. PERCENT OF ANNUAL REQUIREMENTS: 61.15%

I. BASE PRICE:

FOB Barge
2009 - \$2.273/mmbtu
2010 - \$2.341/mmbtu

REVISED		
<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
2.273	12,100	\$ 55.01
2.341	12,100	\$ 56.65

J. ESCALATIONS TO DATE:

None

K. CURRENT CONTRACT PRICE:

FOB Barge
2009 - \$2.273/mmbtu

<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
2.273	12,100	\$ 55.01

Attachment to Response to Question No. 8
Page 11 of 13
McAdams

A. NAME/ADDRESS: Patriot Coal Sales LLC
12312 Olive Blvd
St. Louis, Missouri 63141

B. PRODUCTION FACILITY: Freedom Mine
Henderson County, Kentucky

Grand Eagle Mine
Henderson County, Kentucky

C. CONTRACT EXECUTED DATE: July 17, 2009

D. CONTRACT DURATION: December 31, 2010

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: 2009 – 228,767 tons (500,000 / 365 X 167)
2010 – 500,000 tons

G. ACTUAL TONNAGE: 2009 – 139,893 tons

H. PERCENT OF ANNUAL REQUIREMENTS: 61.15%

I. BASE PRICE: FOB Barge
2009 - \$2.273/mmbtu
2010 - \$2.341/mmbtu

REVISED		
<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
1.999	11,000 \$	43.98
1.7955	11,000 \$	39.50

J. ESCALATIONS TO DATE: None

K. CURRENT CONTRACT PRICE: FOB Barge
2009 - \$2.273/mmbtu

<u>\$/mmbtu</u>	<u>Guranteed BTU</u>	<u>\$/Ton</u>
1.999	11,000 \$	43.98
1.7955	11,000 \$	39.50

Attachment to Response to Question No. 8
Page 12 of 13
McAdams

A. NAME/ADDRESS:	Oxbow Carbon & Minerals LLC 1601 Forum Place West Palm Beach, Florida 33401
B. PRODUCTION FACILITY:	Valero St. Charles Refinery Norco, Louisiana
C. CONTRACT EXECUTED DATE:	July 17, 2009
D. CONTRACT DURATION:	December 31, 2009
E. CONTRACT AMENDMENTS:	None
F. ANNUAL TONNAGE REQUIREMENTS:	2009 –52,616 tons (115,000 / 365 X 167)
G. ACTUAL TONNAGE:	2009 – 73,348 tons
H. PERCENT OF ANNUAL REQUIREMENTS:	139.40%
I. BASE PRICE:	<u>FOB Barge</u> 2009 - \$35.00/ton
J. ESCALATIONS TO DATE:	None
K. CURRENT CONTRACT PRICE:	<u>FOB Barge</u> 2009 - \$35.00/ton

Attachment to Response to Question No. 8

Page 13 of 13

McAdams

A. NAME/ADDRESS: Marathon Petroleum
539 South Main Street
Findlay, Ohio 45840

B. PRODUCTION FACILITY: Coker Facility
Garyville, Louisiana

C. CONTRACT EXECUTED DATE: July 17, 2009

D. CONTRACT DURATION: December 31, 2011

E. CONTRACT AMENDMENTS: None

F. ANNUAL TONNAGE REQUIREMENTS: 2009 – 183,014 tons (400,000 / 365 X 167)
2010 – 400,000
2011 – 400,000

G. ACTUAL TONNAGE: 2009 – 129,758 tons

H. PERCENT OF ANNUAL REQUIREMENTS: 70.90%

I. BASE PRICE: FOB Barge – Green & Wilson
2009 - \$13.37/ton
2010 - \$13.37/ton
2011 - \$13.37/ton

J. ESCALATIONS TO DATE: 2009 – Wilson
-\$1.75/ton

K. CURRENT CONTRACT PRICE: FOB Barge – Green & Wilson
2009 - \$13.37/ton

		REVISED	
	Green	2009	\$13.37 /ton
	Wilson	2009	\$15.12 /ton

RESPONSE OF BIG RIVERS ELECTRIC CORPORATION
TO COMMISSION STAFF MARCH 23, 2010
POST-HEARING DATA REQUESTS
PSC CASE NO. 2009-00510
MARCH 31, 2010

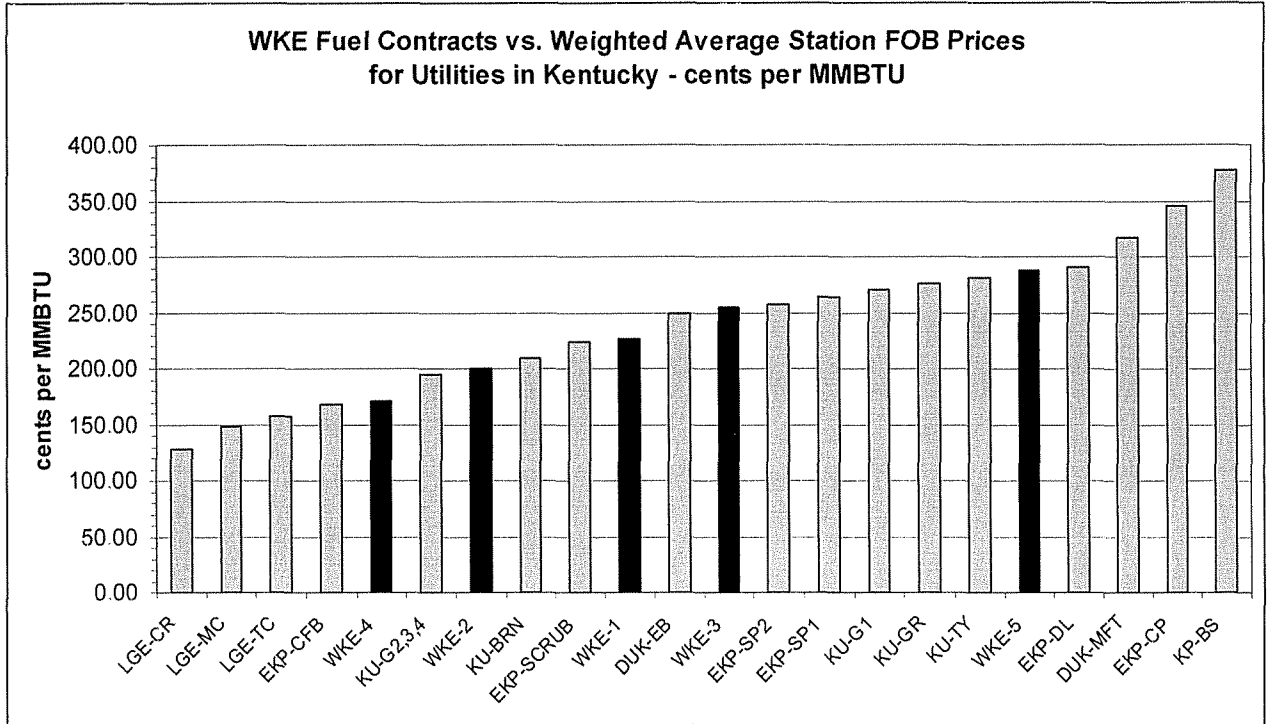
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Item 2 *Please refer to Item 9. Provide a comparison of prices paid by Big Rivers to prices paid by other utilities.*

Response) See attached graphs produced by Cardwell Energy Associates, Inc.

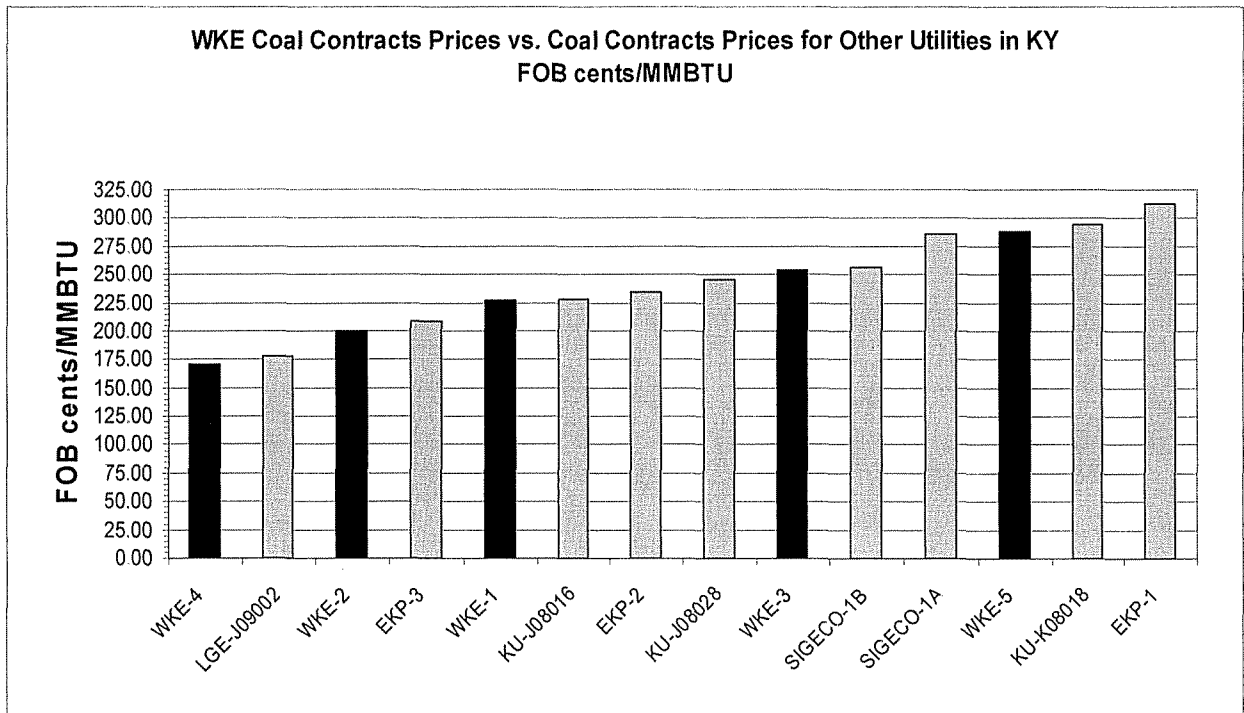
Witness) Mark W. McAdams

**WKE Coal Contracts Prices vs. Weighted Average Station
Fuel Prices for Utility Plants in Kentucky
F.O.B. ¢/MMBTU**



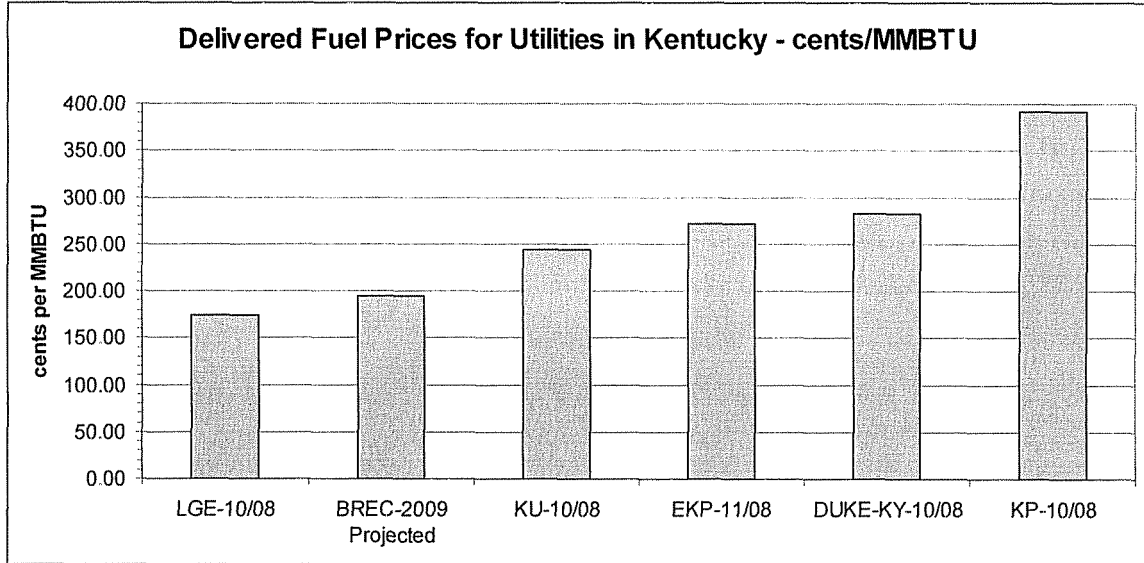
Note: Contracts WKE-3 and WKE-4 are delivered prices including freight to the plants.

**WKE Coal Contracts F.O.B. Price Comparison
Vs. Recently Executed Coal Contracts by Other Utilities in KY
F.O.B. ¢/MMBTU**



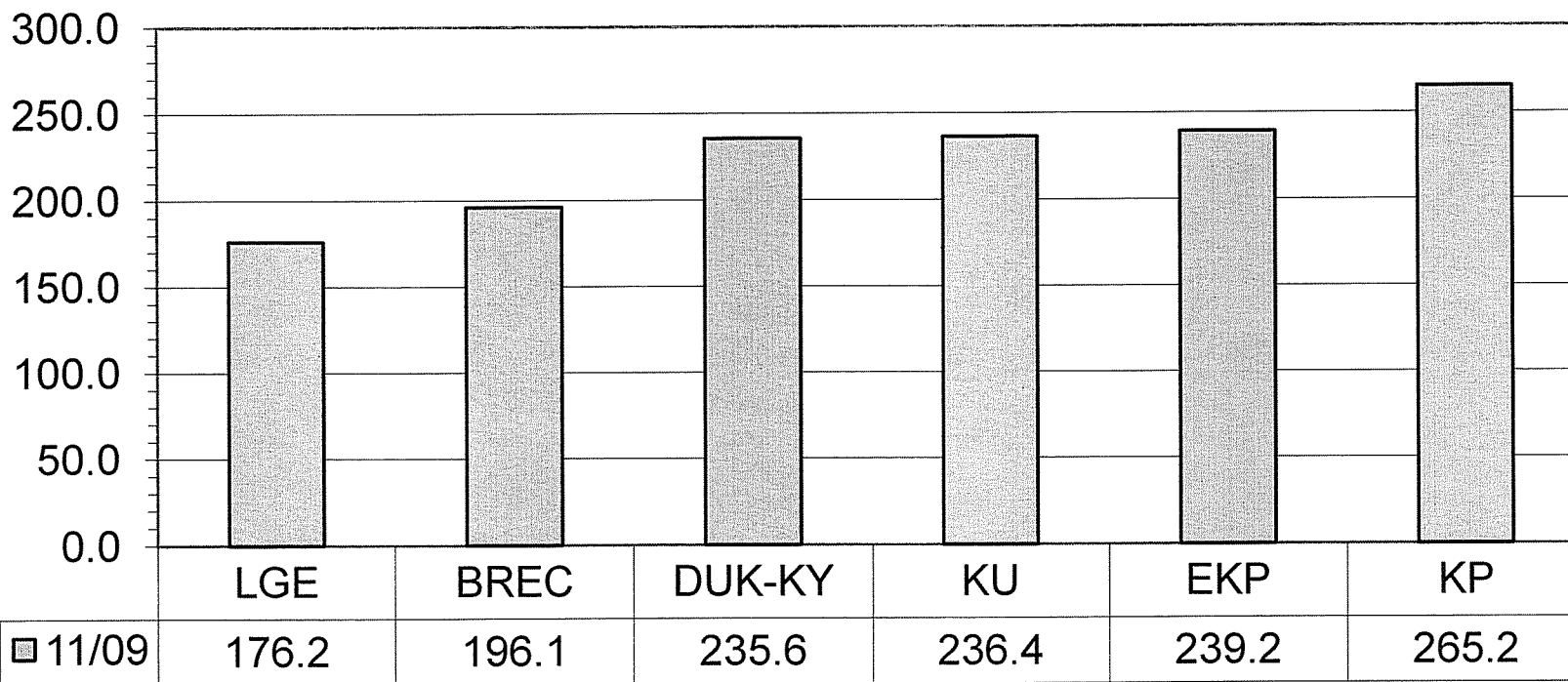
Note: Contracts WKE-3 and WKE 4 are delivered prices including freight to the plants.

**BIG RIVERS's Projected Delivered Fuel Price for 2009 vs.
Other Utilities' Delivered Fuel Costs in October/November 2008**



Note: BIG RIVERS's delivered fuel price is the projected amount for the entire year 2009.

Delivered Coal Cost - November 2009 - cents/MMBTU



RESPONSE OF BIG RIVERS ELECTRIC CORPORATION
TO COMMISSION STAFF MARCH 23, 2010
POST-HEARING DATA REQUESTS
PSC CASE NO. 2009-00510
MARCH 31, 2010

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Item 3 *Please file as an update to Item 19 the two contracts referred to in your original response to this item.*

Response) See Attached.

Witness) Mark W. McAdams

COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of December 30, 2009, by and between; (i) BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation, 201 Third Street, Henderson, Kentucky 42420 ("Buyer"); and (ii) Alliance Coal, LLC, a Delaware limited liability company, having an address of 1717 South Boulder Avenue, Suite 400, Tulsa, Oklahoma 74119 ("Seller"), and ALLIANCE COAL SALES, a division of Alliance Coal, LLC, having an address of 1717 South Boulder Avenue, Suite 400, Tulsa, Oklahoma 74119 (the "Seller's Agent") establishes the terms and conditions pursuant to which the Buyer shall purchase and the Seller shall sell coal of the qualities and quantities described herein. The following terms constitute all of the terms and conditions of the binding agreement between the parties regarding this transaction. Seller agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal of quality, quantity, price, and on the terms and conditions stated in this Agreement.

WITNESSETH:

WHEREAS, Buyer desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

- (a) The above recitals are true and correct and comprise a part of this Agreement.
- (b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.
- (c) Each covenant, representation and warranty given by Seller herein is a material inducement for Buyer to enter into this Agreement.

SECTION 2. TERM. The term of this Agreement shall commence on January 1, 2010 and shall continue through December 31, 2010, unless earlier terminated as specifically provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity").

<u>Year</u>	<u>Base Quantity (tons)</u>
2010	680,000

§ 3.2 Delivery Schedule. Seller shall deliver the Base Quantity in approximately equal monthly installments during the calendar year. Buyer and Seller agree to work in good faith to establish or make necessary changes in previously established delivery schedules to the extent possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

Time is of the essence with respect to Seller's delivery of coal and Buyer's acceptance of deliveries of coal; however, Buyer's right to reject coal pursuant to §6.4 shall not be duly affected by such timely delivery. A failure by Seller to deliver coal or by Buyer to accept coal in accordance with the provisions of this § 3.2, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. During the term of this Agreement, Seller shall mine and supply the coal sold hereunder from any one or more of the mines currently owned or controlled by either Hopkins County Coal, LLC, Warrior Coal, LLC or Webster County Coal, LLC (collectively, the "Coal Properties"); provided that all coal sold by Seller hereunder shall comply with all of the terms and conditions hereof, including without limitation, the quality specifications provided in Section 6. The decision regarding which one or more of the Coal Properties will source the coal sold hereunder at any given time shall be at Seller's sole discretion. If Alliance Coal, LLC, or any of its affiliates, acquire or come into the control of a new mine after the date hereof, such new mine shall be added as an additional source under this Section 4.1, upon the written notice by Seller to Buyer of the addition of such new source. In the event a new mine is added as a source by Seller pursuant to the preceding sentence, such new mine shall be automatically included, from and after the date of the notice, in the definition of "Coal Properties".

§ 4.2 Assurance of Operation and Reserves. Seller represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which will be

sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or its producer will have adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and of the quality required by this Agreement.

§ 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's express prior written consent, use or sell coal, from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount of coal less than that required to be supplied to Buyer

§ 4.4 Relationship of the Parties. The Parties agree that they are not and will not hold themselves out as partners, joint venturers, employees, agents or representatives of each other. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller.

Seller shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller shall exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over Seller's operations or work force.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. The coal shall be delivered to Buyer F.O.B. coal pile at Buyer's Sebree Generating Complex located at 9000 Highway 2096, Robards, Kentucky or F.O.B. coal pile Energy Dock located at 128 Eastwood Ferry Road, Sebree, Kentucky as directed by Buyer

(the "Delivery Point"). Buyer may also elect another delivery point; however, any additional expense or savings as a result of the election of an alternate delivery point shall be for Buyer's account.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when trucks containing the coal are fully unloaded by Seller's trucking contractor at the Delivery Point.

SECTION 6. QUALITY.

§ 6.1 Specifications. (a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis pursuant to Buyer's election of quality:

<u>Quality A Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 12,000	<u>Rejection Limits (per shipment)</u> < 11,700
Ash	Max. 8.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Moisture	Max. 8.00 lbs./MMBTU	> 9.50 lbs./MMBTU
Sulfur	Max. 2.88 lbs./MMBTU	> 3.08 lbs./MMBTU

<u>Quality B Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,800	<u>Rejection Limits (per shipment)</u> < 11,500
Ash	Max. 10.00 lbs./MMBTU	> 12.50 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Sulfur	Max. 2.89 lbs./MMBTU	> 3.10 lbs./MMBTU

<u>Quality C Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,500	<u>Rejection Limits (per shipment)</u> < 11,200
Ash	Max. 12.50 lbs./MMBTU	> 15.00 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.50 lbs./MMBTU
Sulfur	Max. 3.13 lbs./MMBTU	> 3.33 lbs./MMBTU

<u>Quality D Specifications</u> BTU/LB.	<u>Guaranteed Monthly Weighted Average</u> min. 11,000	<u>Rejection Limits (per shipment)</u> < 10,700
Ash	Max. 15.00 lbs./MMBTU	> 17.50 lbs./MMBTU
Moisture	Max. 9.00 lbs./MMBTU	> 10.00 lbs./MMBTU
Sulfur	Max. 3.25 lbs./MMBTU	> 3.45 lbs./MMBTU

All Qualities (lbs./MMBTU)

Sulfur	min. 1.90	< 1.70
Chlorine	max. 0.15	> 0.17
Fluorine	max. .02	> .03
Nitrogen	max. 1.35	> 1.55
Arsenic (ug/g)	max. 15	> 20
Vanadium (ug/g)	max. 75	> 130

SIZE (3" x 0"):

Top size (inches)*	max. 3"	> 4"
Fines (% by wgt)		
Passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	min. 35	< 33
FIXED CARBON	min. 40	< 38
GRINDABILITY (HGI)	min. 52	< 50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	min.	1960	min.	1940
Softening (H=W)	min.	2000	min.	1980
Softening (H=1/2W)	min.	2070	min.	2050
Fluid	min.	2300	min.	2280

OXIDIZING ATMOSPHERE

Initial Deformation	min.	2310	min.	2290
Softening (H=W)	min.	2360	min.	2340
Softening (H=1/2W)	min.	2430	min.	2410
Fluid	min.	2580	min.	2560

* All the coal will be of such size that it will pass through a screen having circular perforations three (3) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

Note: As used herein: > means greater than;
 < means less than.

§ 6.2 Election of Quality. Buyer may reasonably elect deliveries of a single quality, or multiple qualities, from the qualities listed under § 6.1 Specifications. Buyer shall specify the quality of coal to be delivered by providing oral, followed by written notice (which may be by electronic correspondence) to Seller specifying the monthly quantity for a particular quality of coal to be purchased by Buyer. Buyer and Seller agree to work in good faith to make changes in previously established delivery schedules for a particular quantity and quality of coal to the

extent possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

§ 6.3 Definition of "Shipment". As used herein, a "shipment" shall mean: one (1) day's delivery of loaded coal trucks in accordance with Buyer's sampling and analyzing practices. Buyer shall not be responsible for improperly loaded trucks in the event Seller controls or contracts the truck delivery and/or truck loading process. Furthermore, Buyer has the right to refuse delivery of over-weight or improperly loaded trucks.

§ 6.4 Rejection. Buyer has the right, but not the obligation, to reject any shipment which fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within seventy-two (72) hours of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject within seventy-two (72) hours of receipt, any shipment which contains extraneous materials, which include, but are not limited to, slate, rock, wood, corn husks, mining materials, metal, steel, etc. ("Debris") as determined by Buyer.

In the event Buyer rejects such non-conforming coal, title to and risk of loss of the coal shall be considered to have never passed to Buyer and Buyer may, at its sole option, stop the non-conforming shipment in route, prevent the unloading of the non-conforming shipment, return the coal to Seller or mutually agree with Seller upon a disposition for such coal shipment, all at Seller's cost and risk.

Seller shall replace the rejected coal within five (5) working days from notice of rejection with coal exceeding the Rejection Limits set forth in § 6.1. If Seller fails to replace the rejected

coal within such five (5) working day period or the replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the rejected coal. Seller shall reimburse Buyer for (i) any amount by which the actual price plus transportation costs to Buyer of such coal purchased from another source exceeds the price of such coal under this Agreement plus transportation costs to Buyer from the Delivery Point; and (ii) any and all transportation, storage, handling, or other directly related expenses that have been incurred by Buyer for rightfully rejected coal.

If the non-conforming shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall, at Buyer's option, confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal.

In the event Buyer and Seller are unable to reach an agreement concerning an adjustment to the Base Price, Buyer may, at its sole option, and upon written notice to Seller, require Seller to remove all coal constituting the non-conforming shipment from the Delivery Point all at Seller's cost and risk. Seller shall remove such coal within five (5) days after receipt of Buyer's written notice relating thereto.

The remedies set forth herein, except as provide for in Section 6.5, are Buyer's sole and exclusive remedies for Seller's non-conforming shipments.

If Buyer fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such shipment contained Debris, then such non-conforming coal shall be deemed accepted by Buyer; however,

the quantity Seller is obligated to sell to Buyer under the Agreement shall be reduced by the amount of each such non-conforming shipment which is not rejected. Further, for shipments containing Debris, the estimated weight of such materials shall be deducted from the weight of that shipment.

§ 6.5 Suspension and Termination. If the coal sold hereunder during two consecutive months or more, or for any two (2) months in a six (6) month period, fails to meet the two or more of the Guaranteed Monthly Weighted Averages as nominated and as set forth in § 6.1, or if nine (9) shipments are rejectable in any thirty (30) day period, Buyer may upon written notice delivered in accordance with § 12, Notices, suspend future shipments except shipments already loaded into trucks. Seller shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or exceed the Guaranteed Monthly Weighted Averages set forth in § 6.1 and that the coal from the source will exceed the Rejection Limits set forth in § 6.1. If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. Buyer's failure to terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable satisfaction, shipments hereunder shall resume and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of shipment. If Seller, after such assurances, fails to meet any of the Guaranteed Monthly Weighted Averages for any one (1) month within the next

six (6) months or if three (3) shipments are rejectable within any one (1) month during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law and in equity for Seller's breach. All costs, expenses or damages incurred by Buyer in obtaining Seller's assurance that subsequent deliveries will conform to the quality specifications shall be paid to Buyer by Seller.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights for Deliveries. The weight of the coal delivered hereunder by truck shall be determined on a per shipment basis by Buyer on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. Such scales shall be duly reviewed by an appropriate independent testing agency and maintained in a condition such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. To ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate conditions for weighing pursuant to the National Institute of Standards and Technology Handbook 44 for such scales. Seller shall have the right, at Seller's expense and upon reasonable notice, to have the scales checked for accuracy at any reasonable time or frequency. If the scales are found to be over or under the tolerance range allowable for the scales based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed the mid-point of time in days between the last test and the point in time at which the scale is found to be inaccurate, provided however, the number of days shall not exceed one-half the number of days between scale tests.

§ 7.2 Sampling and Analysis for Deliveries. The sampling and analysis of the coal delivered hereunder shall be performed by Buyer at the Delivery Point and the results thereof shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement, except as otherwise provided for herein. Buyer shall send to Seller by facsimile or via email a copy of Buyer's analysis within five (5) business days after sampling the applicable shipment. All analyses shall be made in Buyer's or Buyer's contractor's laboratory at Buyer's expense in accordance with American Society of Testing and Measurement (hereinafter referred to as "A.S.T.M.") practices and procedures. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; and (iii) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller represents that it is familiar with the sampling and analysis procedures described above and finds them to be acceptable. Buyer shall notify Seller in writing of any significant changes in Buyer's sampling and analysis practices. Any such changes in Buyer's or Buyer's contractor's sampling and analysis practices shall, except for A.S.T.M. accepted changes in practices, provide for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree. Seller shall have the right, at Seller's expense and upon reasonable notice, to visit Buyer's or Buyer's sample collection area, sampler and Buyer's and/or Buyer's contractor's laboratory to review coal quality analysis processes and shall further have the right to suggest processes for improvement in accuracy at any reasonable time or frequency.

Each sample taken by Buyer shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis by Buyer; one part shall be used by Buyer as a check sample, if Buyer in its sole judgment determines it is necessary; one part shall be retained by Buyer until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to Seller for analysis if Seller so requests before the Disposal Date; and one part ("Referee Sample") shall be retained by Buyer until the Disposal Date. Buyer shall provide a composite of all the analysis for presentation to Seller by the fifteenth (15th) day of the month following the month of unloading. Seller, on reasonable notice to Buyer, shall have the right to have a representative present to observe the sampling and analyses performed by Buyer or Buyer's contractor. Unless Seller requests a Referee Sample analysis before the Disposal Date, Buyer's analysis shall be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample retained by Buyer shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and Buyer's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis of Seller by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis

(iv) 0.10% sulfur on a dry basis.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of Buyer by an amount more than the amounts listed above, then the analysis of the Independent Lab shall prevail and Buyer's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by Seller to the extent that Buyer's analysis prevails and by Buyer to the extent that the analysis of the Independent Lab prevails.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by Delivery Point and by quality as nominated by Buyer on the basis of \$/MMBTU F.O.B. Delivery Point as directed by Buyer ("Base Price"):

	Quality A 12,000 Btu	Quality B 11,800 Btu	Quality C 11,500 Btu	Quality D 11,000 Btu	All prices \$/MMBTU
2010					
Sebree Complex	\$2.060	\$2.061	\$2.063	\$2.065	
Energy Dock	\$2.048	\$2.048	\$2.050	\$2.052	

§ 8.2 Diesel Fuel Adjustment (Surcharge or Discount). In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel (surcharge or discount) for transportation purposes. The diesel fuel adjustment shall be adjusted effective on the first day of each month, beginning January 1, 2010, to reflect any change in the price of diesel fuel, calculated as follows:

BPG = Base fuel price per gallon is \$2.50 per gallon.

APG = The adjustment for each month shall be based upon the average price reported for the second month preceding the month of delivery in the Energy Information Administration Weekly Retail On-Highway Diesel Prices – Average All Types (Dollars per Gallon, including all Taxes) for the Midwest No. 2 Diesel Retail Sales by All Sellers (Cents per Gallon) found under the link Spreadsheet of Complete Diesel Historical Data (worksheet name Cell Data 2 M Diesel Prices All types) (the “E.I.A. Report”).

If the applicable average monthly price reported in the E.I.A. Report for the second month preceding the month of delivery exceeds or is less than \$2.50 per gallon, the price of coal during the month of delivery shall be either increased or decreased by \$0.04 per ton for each \$0.10 per gallon, on a pro rata basis, that the applicable second preceding month the E.I.A. Report price either exceeds or is less than \$2.50 per gallon.

For example and avoidance of doubt, a calculation formula is provided.

Formula: $APG - BPG = \text{Positive (surcharge) or negative (discount) change in per gallon price of fuel. For } \$0.10 \text{ increase or decrease in the cost of diesel fuel, the per ton surcharge or discount shall be } \$0.04 \text{ per ton, fractions pro rata.}$

Seller shall furnish Buyer with a copy of the appropriate E.I.A. Report information, calculation, and any necessary and reasonable supporting documentation on the average diesel fuel price with each fuel surcharge and/or discount submitted prior to each month of delivery.

§ 8.3 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to Section 6. QUALITY and Section 7. WEIGHTS, SAMPLING AND ANALYSIS. If there are any quality adjustments pursuant to Section 9.2 , such adjustments shall apply for the month the coal was delivered to the Delivery Point.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Supervisor, Fuels Accounting

With a copy to:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Director, Fuels Procurement

§ 9.2 Payment Procedures for Coal Shipments. For all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for one-hundred percent (100%) of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of unloading, except that, if the twenty-fifth (25th) is not a regular work day, payment shall be made on the next regular work day. All preliminary payments shall be calculated based upon the then current Base

Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month by the 20th of the month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

For all coal delivered, as defined in Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and the last day of any calendar month, Buyer shall make a payment for one-hundred percent (100%) of the amount owed for the coal by the tenth (10th) day of the month following the month of unloading, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Also by the tenth (10th) day of the month following the month of unloading of coal at the Delivery Point, a reconciliation of amounts paid and amounts owed during said month shall be made, including, any adjustments for any applicable discounts or other adjustments provided herein, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and last day of any calendar month by the 5th day of the following month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. Except as provided in § 9.3

below, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

Seller shall provide Buyer its bank wiring and A.C.H. instructions at least two weeks prior to first scheduled payment.

§ 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes and (ii) any amounts owed to Buyer from Seller. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. If such disputed amount or damage or likely damages exceed \$100,000, Seller shall have the right to suspend shipments until such time as the dispute is resolved and settlement of withholding occurs.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. Any disputed amounts withheld by Buyer that are later found to have been withheld improperly, other than amounts disputed resulting from errors, lack of documentation, or other related incidents surrounding any disputed amount or similar legitimate and reasonable disputes, shall be subject to interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. Notwithstanding anything herein to the contrary, if an event occurs that would otherwise be a force majeure event under this Section 10.1, but either Party is still able to perform its obligations hereunder, (in Seller's case, after taking into account all of Seller's then existing obligations to deliver coal to third parties from the unaffected Coal Properties through one or more of the Coal Properties (or portions thereof) that are not affected by such force majeure event), then such event shall not be considered a force majeure event hereunder. If either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, terrorism, strikes, lockouts, labor disputes, disturbances or unrest, damage to plants, equipment or facilities, fires, floods or earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application of same, mine accidents that are solely responsible for delaying or preventing performance of Seller, roof falls, roof and floor intrusions, geologic pressure which traps equipment, underground flooding, build up of methane gas or any other mining conditions which cause unusually dangerous and unsafe working conditions at the Coal Properties; extraordinary and unanticipated changes in coal seam characteristics at the Coal Properties related to a parting in the coal seam and/or a high sulfur pocket which require Seller to retreat its affected mining units to other areas of its mining reserves at the Coal Properties, reduced productivity at the Coal Properties resulting from a labor dispute or compliance with Government Imposition as set forth in Section 11, and without the fault or negligence of the party affected thereby, then the obligations of both parties hereto shall be suspended to the extent made necessary by such event;

provided that the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event. Failure to give such notice and to furnish the designated information shall be deemed a waiver of the affected party's rights under this § 10. The party declaring force majeure shall exercise due diligence to avoid the force majeure event or shorten its duration and will keep the other party advised as to the continuance of the force majeure event.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so at the beginning of the force majeure event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its buyers in place at the beginning of the force majeure event to whom Seller's ability to supply is similarly affected by such force majeure event.

During any period in which Buyer's ability to perform hereunder is affected by a force majeure event, Buyer shall not purchase any coal from any other sellers unless contractually committed to do so at the beginning of the force majeure event; and further shall purchase from Seller under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its sellers in place at the beginning of the force majeure event with whom Buyer has contracted for the supply of coal.

Events of force majeure as defined above affecting a supplier or contractor of a party hereto, other than for the production and shipping of coal, will be treated as the affected party's

force majeure provided that the affected party diligently and promptly obtains an alternate source of supply or services. Force majeure does not include: (i) the loss of Buyer's markets; (ii) a change in market conditions including the ability of the Seller to sell coal at a higher price; (iii) Seller's inability to economically produce or obtain the coal; or (iv) Buyer's inability to economically purchase coal under this Agreement, including Buyer's ability to buy other coal at a lower price, whether or not foreseeable.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller and Seller reserves the right to sell coal to third parties during the occurrence of a force majeure event affecting Buyer. If tonnage deficiencies result from a Seller's or Buyer's declared force majeure event lasting thirty (30) days or less, such deficiencies may be made up at the non-affected party's sole option on a mutually agreed-upon schedule. Any tonnage deficiencies resulting from a Seller's or Buyer's declared force majeure event lasting longer than thirty (30) days shall not be made up except by mutual agreement of the parties.

In the event that a situation of force majeure that materially affects a party's ability to perform its obligations hereunder continues for a period exceeding sixty (60) days, then the party not claiming force majeure may elect to terminate this Agreement by giving written notice to the affected party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

§ 10.2 Environmental Law Force Majeure. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or amend environmental laws, regulations, policies and/or restrictions which will make it impossible or commercially impracticable for Buyer to utilize this or like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or amendment of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating, or creating the potential for violation of, any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days notice to Seller or the effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party hereto except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

SECTION 11. CHANGES.

Buyer or Seller may, by mutual agreement, at any time by written notice pursuant to § 12 of this Agreement, make changes within the general scope of this Agreement in any one or more

of the following: quality of coal or coal specifications, quantity of coal, method or time of shipments, place of delivery (including transfer of title and risk of loss), method(s) of weighing, sampling or analysis, or government imposition as hereinafter defined, and such other provision as may affect the suitability and amount of coal for Buyer's generating stations.

For the purposes of this Agreement, Government Imposition shall be defined as changes in (i) taxes (other than state or federal income taxes or payroll taxes), (ii) fees and/or (iii) costs as a result of action by any level of government or administrative agency, including those changes occasioned by compliance with interpretations or enforcements of law in force on the date of this Agreement, but only if, the interpretations or enforcements are issued by a court, governmental agency, or regulatory body, and are different from the interpretations or enforcements of the relevant laws as they existed on the date of this Agreement (other than fees and/or costs which (a) are brought about by the inefficient operations of Seller, (b) are attributable to Seller's negligence, or (c) are the result of criminal fines or penalties imposed on Seller by any government or governmental agency and relating to the mining, production, severance, preparation, or sale of the coal). The Base Price includes all Government Impositions as of the date of this Agreement.

If any Government Imposition occurs during the term of this Agreement, Seller shall make a claim for an equitable pro rata adjustment equal to the change in costs based upon Buyer's apportionment of tonnage.

Any claim by the Seller for adjustment under this § 11 shall be asserted as soon as Seller is able to determine the cost increase or decrease impact after the date of the Government

Imposition, it being understood, however that Seller shall not be obligated to proceed under this Agreement until an equitable adjustment has been agreed upon. The parties agree to negotiate promptly and in good faith for a period not to exceed thirty (30) days from the date of notice provided by the party seeking adjustment, to agree upon the nature and extent of any equitable adjustment. In the event the parties cannot agree upon an adjustment, this Agreement shall terminate ninety days from the date on which negotiations cease.

Any claim by the Seller for adjustment under this § 11 which is asserted after the expiration date of this Agreement which is retroactive in nature shall be submitted as soon as Seller is able to determine the cost increase or decrease impact, but in no event later than April 30, 2011. In the event the parties cannot agree upon an adjustment, the Parties shall submit the matter to binding arbitration for determination of the price adjustment. Buyer shall be afforded full discovery at its expense of any and all documentation regarding any claim. Buyer and Seller shall mutually agree to the selection of the arbitrator. The fees paid to the arbitrator shall be shared equally between Buyer and Seller. Buyer and Seller shall each bear their own legal fees and expenses in connection with the arbitration.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage

prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn: Director, Fuels Procurement

If to Seller: Warrior Coal, LLC.
1717 South Boulder Ave, Suite 400
Tulsa, OK 74119
Attn: General Manager – Contract Administration

With Copy To: Alliance Coal Sales
3110 Fairview Drive, Suite 111
Owensboro, Kentucky 42303
Attn: General Manager - Central Region Sales

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's reasonable cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's reasonable request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, and property damage (the "Claims") (i) relating to the trucks provided by Seller or Seller's contractor while such trucks are delivering coal to the Delivery Point, (ii) due to any failure of Seller, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (iii) due to the acts or omissions of Seller, and its respective employees, agents, representatives, contractors or subcontractors, in performing Seller's obligations specifically set forth under this Agreement,.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all Claims relating to) the ownership or use of the coal from and after the time that the coal is delivered to Buyer at the Delivery Point.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) *Workers' Compensation and Employer's Liability with statutory limits.*

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Prior to the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than fifteen (15) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice

Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 of this Agreement shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement except as provided in Section 11. Changes.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right at no additional expense to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era;

Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

SECTION 18. COAL PROPERTY INSPECTIONS.

Buyer and its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right, but not the obligation, upon reasonable notice at reasonable times and at their own risk and expense to inspect the Coal Property, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment for conformance with this Agreement. Seller shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect the Coal Property. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws. Buyer understands that coal mines and related facilities are inherently high-risk environments. Buyer's failure to inspect the Coal Property or to object to defects therein at the time Buyer inspects the same shall not be construed as constituting an approval of Seller's mining plan or mining practices, relieve Seller of any of its responsibilities, nor be deemed to be a waiver of any of Buyer's rights hereunder.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Except for those remedies identified under this Agreement as exclusive remedies, any other remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity, except that neither Party shall in any event be liable for any special, consequential, incidental, indirect, exemplary, or punitive damages, including without limitation lost profits, on account of any alleged default, breach of contract, negligence, or other act pursuant to this Agreement.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or denied. Notwithstanding the foregoing, no consent is required for an assignment or other transfer by a party as part of a merger, reorganization or consolidation involving such party.

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

§ 19.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses, costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by any brokers claiming by, through or on behalf of Seller arising from this Agreement.

SECTION 20. CONFIDENTIALITY

Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller or Buyer) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceedings before courts,

regulatory bodies, or agencies such as the Kentucky Public Service Commission involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize the disclosure to the extent possible. The obligations of Buyer and Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

SECTION 21. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards, is potentially in violation of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

(Signature page follows)

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date corresponding to each of their signature blocks below, but this Agreement shall be effective as of the date first above written.

BUYER:

BIG RIVERS ELECTRIC COMPANY

Mark A. Bailey

Mark A. Bailey

Chief Executive Officer and President

Date: 1/6/10

SELLER:

ALLIANCE COAL, LLC.

Robert G. Sachse

Robert G. Sachse

Executive Vice President

Date: 12-30-09

COAL SUPPLY AGREEMENT

This Coal Supply Agreement (the "Agreement") dated as of January 1, 2012, by and between BIG RIVERS ELECTRIC CORPORATION, a Kentucky corporation, 201 Third Street, Henderson, Kentucky 42420 ("Buyer"), and ALLIED RESOURCES, INC., a Kentucky corporation, having an address of 15 New Steamport Road, Sebree, Kentucky 42455 ("Seller") establishes the terms and conditions pursuant to which the Buyer shall purchase and the Seller shall sell coal of the qualities and quantities described herein. The following terms constitute all of the terms and conditions of the binding agreement between the parties regarding this transaction. Seller agrees to sell and deliver, and Buyer agrees to buy and accept, bituminous coal of quality, quantity, price, and on the terms and conditions stated in this Agreement.

WITNESSETH:

WHEREAS, Buyer desires to purchase steam coal; and

WHEREAS, Buyer and Seller desire to enter into a coal supply agreement pursuant to which the Seller will supply coal to Buyer under the terms as set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

SECTION 1. GENERAL.

- (a) The above recitals are true and correct and comprise a part of this Agreement.
- (b) Seller will sell to Buyer, and Buyer will buy from Seller steam coal under all the terms and conditions of this Agreement.
- (c) Each covenant, representation and warranty given by Seller herein is a material inducement for Buyer to enter into this Agreement.

SECTION 2. TERM. The term of this Agreement shall commence on January 1, 2010 and shall continue through December 31, 2011, unless earlier terminated as specifically provided herein.

SECTION 3. QUANTITY.

§ 3.1 Base Quantity. Seller shall sell and deliver and Buyer shall purchase and accept delivery of the following annual base quantity of coal ("Base Quantity").

<u>Year</u>	<u>Base Quantity (tons)</u>
2010	650,000
2011	500,000

§ 3.2 Delivery Schedule. Seller shall deliver the Base Quantity in approximately equal monthly installments during the calendar year. Buyer and Seller agree to work in good faith to establish or make reasonable changes in previously established delivery schedules to the extent

possible given Seller's operational logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

Time is of the essence with respect to such deliveries. A failure by Seller to deliver coal or by Buyer to accept coal in accordance with the provisions of this § 3.2, other than a failure resulting from a force majeure event, as defined in § 10 hereof, shall constitute a material breach within the meaning of § 14 of this Agreement.

SECTION 4. SOURCE.

§ 4.1 Source. During the term of this Agreement (through December 31, 2011), Seller shall mine and supply the coal sold hereunder from the Onton No. 9 Mine, an underground mining facility located in Webster County, Kentucky, holding mining permits 915-5017 and mine MSHA ID 15-18547 and mining the West Kentucky No. 9 geological coal seam (the "Coal Property"). If Seller or any of its subsidiaries, acquire or come into the control of a new mine after the date hereof, Seller shall have the right to add such new mine as an additional source under this Section 4.1, upon the written notice by Seller to Buyer of the addition of such new source. In the event a new mine is added as a source by Seller pursuant to the preceding sentence, such new mine shall be automatically included, from and after the date of the notice, in the definition of "Coal Properties". Any coal supplied from a new mine shall comply with all of the terms and conditions hereof, including without limitation, the quality specifications provided in Section 6. The decision regarding which one or more of the Coal Properties will source the coal sold hereunder at any given time shall be at Seller's sole discretion.

§ 4.2 Assurance of Operation and Reserves. Seller represents and warrants that the Coal Property contains economically recoverable coal of a quality and in quantities which will be sufficient to satisfy all the requirements of this Agreement. Seller agrees and warrants that it or its producer will have adequate machinery, equipment and other facilities to produce, prepare and deliver coal in the quantity and of the quality required by this Agreement. Seller hereby dedicates to this Agreement sufficient reserves of coal meeting the quality specifications hereof so as to fulfill the quantity requirements hereof. Seller's dedication of reserves shall in no way be construed to limit or restrict Seller's ability to claim a valid force majeure event under provisions of Section 10 herein.

§ 4.3 Non-Diversion of Coal. Seller agrees and warrants that it will not, without Buyer's express prior written consent, use or sell coal, from the Coal Property in a way that will reduce the economically recoverable balance of coal in the Coal Property to an amount of coal less than that required to be supplied to Buyer based on the economic and mining conditions then existing.

§ 4.4 Mining Overview. On or before March 1, 2010, Seller and Buyer shall meet and Seller shall have prepared a general overview of Seller's mining plan for the Coal Property with reasonable information to demonstrate Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement. Seller shall not be obligated to provide Buyer with any written detail, however, Seller shall provide reasonable, timely, and adequate information to Buyer in regard to any foreseen mining conditions which might hinder, delay, or otherwise cause supply disruptions during the term of this Agreement.

Buyer's receipt of any such mining information or data furnished voluntarily by Seller (the "Mining Information") shall not in any manner relieve Seller of any of Seller's obligations or responsibilities under this Agreement. Buyer's receipt and review, if any, of any Mining Information shall not be construed as constituting an approval of Seller's proposed mining overview or mining practices. Any such mining information furnished to Buyer by Seller shall be held in strict confidence and shall not be disclosed to third parties during the term of this Agreement and for a period of two (2) years thereafter. The parties acknowledge that Buyer has no right to approve, disapprove or require modification of Seller's mining plan. Buyer and Seller understand and acknowledge that a review, if any, by Buyer of the Mining Information shall be limited solely to a determination, for Buyer's purposes only, of Seller's capability to supply coal to fulfill Buyer's requirements of a dependable coal supply. In the event, Buyer does not reasonably believe that Seller has sufficiently demonstrated Seller's capability to have coal produced from the Coal Property which meets the quantity and quality specifications of this Agreement, then the Buyer may terminate this Agreement upon 30 days written notice to the Seller, and Buyer shall not have any further obligations to Seller hereunder.

§ 4.5 Relationship of the Parties. Seller agrees that it is not and will not hold itself out as a partner, joint venturer, employee, agent or representative of Buyer. Nothing herein contained shall be construed as creating a single enterprise, joint venture, agency, partnership, joint employer, owner-contractor, or lessor-lessee relationship between Buyer and Seller.

Seller shall have sole and exclusive authority to direct and control its respective activities and operations, and those of any subcontractors, undertaken in the performance of Seller's obligations under this Agreement. Seller shall exercise full and complete control over its respective work force and labor relations policies. Buyer shall have no authority or control over Seller's operations or work force.

§ 4.6 Substitute Coal. Notwithstanding the above representations and warranties, Seller shall promptly advise Buyer at least thirty (30) days prior to any scheduled delivery date in the event that Seller anticipates that it will be unable to produce or obtain coal from the Coal Property in the quantity and of the quality required by this Agreement, and such inability is not caused by a force majeure event as defined in § 10. Buyer may request, within five (5) business days after such notification, that Seller supply coal to Buyer not produced from the Coal Property ("Substitute Coal"). Seller will then have the right, with the express written consent of Buyer, which shall not be unreasonably withheld, to supply Substitute Coal. Alternatively, Seller may request Buyer's written consent, which shall not be unreasonably withheld, to supply Substitute Coal. Any such supply of Substitute Coal shall be subject to all the terms and conditions of this Agreement including, but not limited to, the price provisions of § 8, the quality specifications of § 6.1, and the provisions of § 5 concerning reimbursement to Buyer for increased transportation costs. Buyer's failure to request that Seller provide substitute coal shall not limit or affect any rights and remedies Buyer may have for Seller's breach of its obligations to supply coal pursuant

to this Agreement. Seller's delivery of Substitute Coal without having received the express written consent of Buyer shall constitute a material breach of this Agreement.

SECTION 5. DELIVERY.

§ 5.1 Delivery Point. The coal shall be delivered to Buyer F.O.B. coal pile at Buyer's Sebree Generating Complex located at 9000 Highway 2096, Robards, Kentucky or F.O.B. barge at Seller's Steamport Dock located at mile point 45.6 on the Green River as directed by Buyer (the "Delivery Point"). Buyer may also elect another delivery point; however, any additional expense or savings as a result of the election of an alternate delivery point shall be for Buyer's account.

§ 5.2 Title/Risk of Loss. Title to and risk of loss of coal sold hereunder will pass to Buyer and the coal will be considered to be delivered when trucks containing the coal are fully unloaded by Seller's trucking contractor at the Delivery Point or as fully loaded barges are released by Seller to Buyer's barging contractor at the Steamport Dock.

§ 5.3 Barge Delivery. Buyer or its contractor shall furnish suitable barges in accordance with a delivery schedule provided by Buyer to Seller. Seller shall ensure that rake barges are loaded to a minimum of 1,525 tons per barge and that box barges are loaded to a minimum of 1,625 tons per barge unless river conditions are such that less amounts must be loaded or barges arrive at the loading point containing excess residual coal material. It shall be the responsibility of Buyer or its contractor to ensure barges supplied are clean and suitable for loading. In the event lesser amounts are loaded, notice of light loading and river condition requirements for such

light loading shall accompany Seller's shipment notice. Seller shall arrange and pay for all costs of transporting the coal to the staging areas for loading of barges and for loading and trimming the coal into barges to the proper weight and proper distribution within the barges. Buyer shall arrange for transporting the coal from the Delivery Point to Buyer's generating station(s) and shall pay for the cost of such transportation. Seller shall be responsible for any delays costs or other penalties assessed by Buyer's barging contractor and actually paid by Buyer for actual charges or costs incurred by Buyer which accrue at the Delivery Point which are deemed to have been caused by Seller, and not otherwise excused by an event of force majeure. If, in the reasonable opinion of Seller or its representative, the supplied barges contain an excess of residual material which makes them unsuitable for loading, it will be the responsibility of Buyer or its contractor to remove any residual material from the supplied barges at Buyer's expense. Seller shall, as the loading operator, ensure that the barges provided by Buyer or Buyer's contractor shall be provided convenient and safe ingress, transit, berth, loading, and egress while the barges are at the Seller's Steamport Dock. Seller shall be responsible for all fleeting, switching, and other mooring fees associated with loading and safely harboring the barges until such time as Buyer's contractor removes the barges. Buyer or its contractor shall not unreasonably delay pick up of barges upon notice of loading and release.

SECTION 6. QUALITY.

§ 6.1 Specifications. (a) The coal delivered hereunder shall conform to the following specifications on an "as received" basis pursuant to Buyer's election of quality:

Quality A Specifications BTU/LB.	Guaranteed Monthly Weighted Average min. 11,700	Rejection Limits (per shipment) < 11,200
Ash	Max. 9.65 lbs./MMBTU	> 10.15 lbs./MMBTU
Moisture	Max. 10.26 lbs./MMBTU	> 11.54 lbs./MMBTU
Sulfur	Max. 2.625 lbs./MMBTU	> 3.00 lbs./MMBTU

Quality B Specifications BTU/LB.	Guaranteed Monthly Weighted Average min. 11,500	Rejection Limits (per shipment) < 11,000
Ash	Max. 10.50 lbs./MMBTU	> 11.00 lbs./MMBTU
Moisture	Max. 10.43 lbs./MMBTU	> 11.74 lbs./MMBTU
Sulfur	Max. 2.87 lbs./MMBTU	> 3.12 lbs./MMBTU

Quality C Specifications BTU/LB.	Guaranteed Monthly Weighted Average min. 11,000	Rejection Limits (per shipment) < 10,500
Ash	Max. 13.25 lbs./MMBTU	> 13.75 lbs./MMBTU
Moisture	Max. 10.90 lbs./MMBTU	> 12.30 lbs./MMBTU
Sulfur	Max. 3.63 lbs./MMBTU	> 3.75 lbs./MMBTU

All Qualities (lbs./MMBTU)

Sulfur	min. 2.00	< 2.00
Chlorine	max. 0.13	> 0.18
Fluorine	max. .01	> .0125
Nitrogen	max. 1.75	> 2.50

Arsenic (ug/g)	max. 15	> 20
Vanadium (ug/g)	max. 75	> 130
SIZE (3" x 0"):		
Top size (inches)*	max. 3"	> 3"
Fines (% by wgt)		
Passing 1/4" screen	max. 50%	> 55 %

% BY WEIGHT:

VOLATILE	min. 35	< 33
FIXED CARBON	min. 40	< 38
GRINDABILITY (HGI)	min. 52	< 50

ASH FUSION TEMPERATURE (°F) (ASTM D1857)

REDUCING ATMOSPHERE

Initial Deformation	min. 1990	min. 1990
Softening (H=W)	min. 2150	min. 2000
Softening (H=1/2W)	min. 2300	min. 2150
Fluid	min. 2350	min. 2200

OXIDIZING ATMOSPHERE

Initial Deformation	min. 2410	min. 2300
Softening (H=W)	min. 2440	min. 2375
Softening (H=1/2W)	min. 2550	min. 2425
Fluid	min. 2590	min. 2450

* All the coal will be of such size that it will pass through a screen having circular perforations three (3) inches in diameter, but shall not contain more than fifty-five percent (55%) by weight of coal that will pass through a screen having circular perforations one-quarter (1/4) of an inch in diameter.

Note: As used herein: > means greater than;
< means less than.

§ 6.2 Election of Quality. Buyer may reasonably elect deliveries of a single quality, or multiple qualities, from the qualities listed under § 6.1 Specifications. Buyer shall specify the quality of coal to be delivered by providing oral, followed by written notice (which may be via electronic correspondence) to Seller specifying the monthly quantity for a particular quality of coal to be purchased by Buyer. Buyer and Seller agree to work in good faith to make changes in previously established delivery schedules for a particular quantity and quality of coal to the extent possible given Seller's operational capabilities, logistics and schedules with its other customers and Buyer's operational logistics and schedules with its other suppliers.

§ 6.3 Definition of "Shipment". As used herein, a "shipment" shall mean: one (1) day's delivery of loaded coal trucks or one (1) jumbo open-top barge, in accordance with Buyer's or Seller's sampling and analyzing practices. Buyer shall not be responsible for improperly loaded trucks in the event Seller controls or contracts the truck delivery and/or truck loading process. Furthermore, Buyer has the right to refuse delivery of over-weight or improperly loaded trucks.

§ 6.4 Rejection. Buyer has the right, but not the obligation, to reject any shipment which fail(s) to conform to the Rejection Limits set forth in § 6.1. Buyer must reject such coal within seventy-two (72) hours of receipt of the coal analysis provided for in § 7.2 or such right to reject is waived. Buyer has the further right, but not the obligation, to reject at any time, any shipment which contains extraneous materials, which include, but are not limited to, slate, rock,

wood, corn husks, mining materials, metal, steel, etc. ("Debris") as reasonably determined by Buyer.

In the event Buyer rejects such non-conforming coal, title to and risk of loss of the coal shall be considered to have never passed to Buyer and Buyer may, at its sole option, stop the non-conforming shipment in route, prevent the unloading of the non-conforming shipment, return the coal to Seller or mutually agree with Seller upon a disposition for such coal shipment, all at Seller's cost and risk.

Seller shall replace the rejected coal within five (5) working days from notice of rejection with coal exceeding the Rejection Limits set forth in § 6.1. If Seller fails to replace the rejected coal within such five (5) working day period or the replacement coal is rightfully rejected, Buyer may purchase coal from another source in order to replace the rejected coal. Seller shall reimburse Buyer for (i) any amount by which the actual price plus transportation costs to Buyer of such coal purchased from another source exceeds the price of such coal under this Agreement plus transportation costs to Buyer from the Delivery Point; and (ii) any and all transportation, storage, handling, or other directly related expenses that have been incurred by Buyer for rightfully rejected coal.

If the non-conforming shipment has been unloaded at Buyer's generating station prior to the receipt of the coal analysis provided for in § 7.2, Buyer and Seller shall, at Buyer's option, confer for the purpose of reaching agreement on an adjustment to the Base Price to be paid for such coal. In addition, Seller shall reimburse Buyer for any penalties, costs or charges, including

reasonable inside and outside attorney's fees, associated with or resulting from the use of the non-conforming shipment. Buyer shall provide Seller with a written calculation of any such penalties, costs or charges within thirty (30) days after receipt of the coal analysis, or as soon as practicable thereafter. Seller shall make payment to Buyer within thirty (30) days of receipt of the written calculation.

In the event Buyer and Seller are unable to reach an agreement concerning an adjustment to the Base Price, Buyer may, at its sole option, and upon written notice to Seller, require Seller to remove all coal constituting the non-conforming shipment from Buyer's property, or such other location as desired by Buyer, all at Seller's cost and risk. Seller shall remove such coal within five (5) days after receipt of Buyer's written notice relating thereto.

The remedies set forth herein are in addition to all of Buyer's other remedies under this Agreement and under applicable law and in equity for Seller's breach.

If Buyer fails to reject a shipment of non-conforming coal which it had the right to reject for failure to meet any or all of the Rejection Limits set forth in § 6.1 or because such shipment contained Debris, then such non-conforming coal shall be deemed accepted by Buyer; however, the quantity Seller is obligated to sell to Buyer under the Agreement shall be reduced by the amount of each such non-conforming shipment which is not rejected. Further, for shipments containing Debris, the estimated weight of such materials shall be deducted from the weight of that shipment.

§ 6.5 Suspension and Termination. If the coal sold hereunder fails to meet two or more of the Guaranteed Monthly Weighted Averages as nominated and as set forth in § 6.1 for any two (2) months in a six (6) month period, or if nine (9) shipments are rejectable in any thirty (30) day period, Buyer may upon written notice delivered in accordance with § 12, Notices, suspend future shipments except shipments already loaded into trucks. Seller shall, within ten (10) days after receipt of Buyer's notice, provide Buyer with reasonable assurances that subsequent monthly deliveries of coal shall meet or exceed the Guaranteed Monthly Weighted Averages set forth in § 6.1 and that the coal from the source will exceed the Rejection Limits set forth in § 6.1. If Seller fails to provide such assurances within said ten (10) day period, Buyer may terminate this Agreement by giving written notice of such termination at the end of the ten (10) day period. Buyer's failure to terminate after the end of such ten (10) day period shall not constitute a waiver for a continuing default or for any subsequent defaults. If Seller provides such assurances to Buyer's reasonable satisfaction, shipments hereunder shall resume and any tonnage deficiencies resulting from suspension may be made up at Buyer's sole option. Buyer shall not unreasonably withhold its acceptance of Seller's assurances, or delay the resumption of shipment. If Seller, after such assurances, fails to meet any of the Guaranteed Monthly Weighted Averages for any one (1) month within the next six (6) months or if three (3) shipments are rejectable within any one (1) month during such six (6) month period, then Buyer may terminate this Agreement and exercise all its other rights and remedies under applicable law and in equity for Seller's breach.

All costs, expenses or damages incurred by Buyer in obtaining Seller's assurance that subsequent deliveries will conform to the quality specifications shall be paid to Buyer by Seller.

SECTION 7. WEIGHTS, SAMPLING AND ANALYSIS.

§ 7.1 Weights for Deliveries. The weight of the coal delivered hereunder by truck shall be determined on a per shipment basis by Buyer on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. The weight of the coal delivered hereunder by barge shall be determined on a per shipment basis by Seller on the basis of scale weights at the Delivery Point unless another method is mutually agreed upon by the parties. The scales of both ^{v. MS 4/19/20} Byer and Seller shall be duly reviewed by an appropriate independent testing agency (such as the Department of Agriculture, Division of Weights and Measures) and maintained in a condition such that the weights are deemed accurate and reliable so as to be used for payment purposes in accordance with the terms and conditions of this Agreement. To ensure such accuracy and reliability, such scales shall be tested and shall comply with appropriate conditions for weighing pursuant to the National Institute of Standards and Technology Handbook 44 for such scales. Seller and Buyer shall have the right, at their own expense and upon reasonable notice, to have the scales checked for accuracy at any reasonable time or frequency. If the scales are found to be over or under the tolerance range allowable for the scales based on the National Institute of Standards and Technology Handbook 44, either party shall pay to the other any amounts owed due to such inaccuracy for a period not to exceed the mid-point of time in days between the last test and the point in time at which the scale is found to be

inaccurate, provided however, the number of days shall not exceed one-half the number of days between scale tests.

§ 7.2 Sampling and Analysis for Deliveries. The sampling and analysis of the coal delivered hereunder shall be performed by Buyer for truck shipments and by Seller for barge shipments at the Delivery Point and the results thereof shall be accepted and used for the quality and characteristics of the coal delivered under this Agreement. Depending upon the mode (truck or barge) the party providing analysis shall send to the other by facsimile or via email a copy of its analysis within five (5) business days after sampling the applicable shipment. All truck shipment analyses shall be made in Buyer's or Buyer's contractor's laboratory at Buyer's expense in accordance with American Society of Testing and Measurement (hereinafter referred to as "A.S.T.M.") practices and procedures. All barge shipment analyses shall be made in Seller's or Seller's contractor's laboratory at Seller's expense in accordance with A.S.T.M. practices and procedures. Samples for analyses: (i) shall be taken by the most current industry-accepted standard for the mechanical sampling system in place; (ii) shall be mutually acceptable to both parties; and (iii) shall be taken with a frequency and regularity sufficient to provide reasonably accurate representative samples of the deliveries made hereunder. Seller and Buyer represent that they are familiar with the sampling and analysis practices to be utilized hereunder, and find them to be acceptable. Either party shall notify the other in writing of any significant changes in its sampling and analysis practices. Any such changes in either party's or party's contractor's sampling and analysis practices shall, except for A.S.T.M. accepted changes in practices, provide

for no less accuracy than the sampling and analysis practices existing at the time of the execution of this Agreement, unless the parties otherwise mutually agree. Either party shall have the right, at its expense and upon reasonable notice, to visit the other's sample collection area, sampler and laboratory to review coal quality analysis processes and shall further have the right to suggest processes for improvement in accuracy at any reasonable time or frequency.

Each sample taken by either party shall be divided into four (4) parts and put into airtight containers, properly labeled and sealed. One part shall be used for analysis; one part shall be used as a check sample, if the party in its sole judgment determines it is necessary; one part shall be retained until the twenty-fifth (25th) of the month following the month of unloading (the "Disposal Date") and shall be delivered to the other for analysis if a party so requests before the Disposal Date; and one part ("Referee Sample") shall be retained until the Disposal Date. Seller must provide in a timely manner to Buyer all analysis results to enable Buyer to provide a composite of all the analyses for presentation to Seller by the fifteenth (15th) day of the month following the month of unloading. Either party, upon reasonable notice to the other, shall have the right to have a representative present to observe the sampling and analyses performed by the other party. Unless a party requests a Referee Sample analysis before the Disposal Date, the party's analysis shall be used to determine the quality of the coal delivered hereunder. The Monthly Weighted Averages shall be determined by utilizing the individual Shipment analyses and the weight of each Shipment.

If any dispute arises before the Disposal Date, the Referee Sample shall be submitted for analysis to an independent commercial testing laboratory ("Independent Lab") mutually chosen by Buyer and Seller. For each coal quality specification in question, a dispute shall be deemed not to exist and the party's analysis shall prevail and the analysis of the Independent Lab shall be disregarded if the analysis of the Independent Lab differs from the analysis by an amount equal to or less than:

- (i) 0.50% moisture
- (ii) 0.50% ash on a dry basis
- (iii) 100 Btu/lb. on a dry basis
- (iv) 0.10% sulfur on a dry basis.

For each coal quality specification in question, if the analysis of the Independent Lab differs from the analysis of the party whose analysis was challenged by an amount more than the amounts listed above, then the analysis of the Independent Lab shall prevail and the party's analysis shall be disregarded. The cost of the analysis made by the Independent Lab shall be borne by party whose analysis was questioned, to the extent the analysis of the Independent Lab prevails and by the other party to the extent the questioned analysis prevails. By means of example, if Buyer questions Seller's analysis and Seller's analysis prevails, Buyer shall bear the costs of the Independent Lab.

SECTION 8. PRICE.

§ 8.1 Base Price. The base price of the coal to be sold and delivered hereunder shall be determined according to the following schedule as set out by Delivery Point and by quality as

nominated by Buyer on the basis of \$/MMBTU F.O.B. Delivery Point as directed by Buyer ("Base Price"):

<u>2010</u>	<u>Quality A</u>	<u>Quality B</u>	<u>Quality C</u>
Sebree Station	\$1.990	\$1.959	\$1.923
Steamport Dock	\$1.959	\$1.929	\$1.891
<u>2011</u>	<u>Quality A</u>	<u>Quality B</u>	<u>Quality C</u>
Sebree Station	\$2.039	\$2.009	\$1.971
Steamport Dock	\$2.009	\$1.979	\$1.939

§ 8.2 Diesel Fuel Adjustment (Surcharge or Discount). In addition to the Base Price §8.1 above, there shall be an adjustment to such price for changes in diesel fuel (surcharge or discount) for transportation purposes. The diesel fuel adjustment shall be adjusted effective on the first day of each month, beginning January 1, 2010, to reflect any change in the price of diesel fuel, calculated as follows:

For every \$0.10 increase or decrease in the base fuel price of \$2.50 per gallon, the truck delivery price shall adjust by one percent (1%) accordingly.

Seller shall furnish Buyer with a copy of the appropriate and representative diesel fuel adjustment calculation, and any necessary and reasonable supporting documentation regarding

the price change above and/or below of the base fuel price of \$2.50 per gallon. Seller shall submit any such diesel fuel price adjustment following the month of delivery.

§ 8.3 Payment Calculation. Payment shall be based solely upon the tonnage and BTU/LB received pursuant to Section 6. QUALITY, Section 7. WEIGHTS, SAMPLING AND ANALYSIS, and Section 8. BASE PRICE. If there are any adjustments pursuant to Section 6. QUALITY, such adjustments shall apply for the month the coal was delivered to the Delivery Point.

SECTION 9. INVOICES, BILLING AND PAYMENT.

§ 9.1 Invoicing Address. Invoices will be sent to Buyer at the following address:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Supervisor, Fuels Accounting

With a copy to:

Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn.: Director, Fuels Procurement

§ 9.2 Payment Procedures for Coal Shipments. For all coal delivered pursuant to Article 5 hereof, and unloaded from truck and/or barge, as the case may be, between the first (1st) and fifteenth (15th) days of any calendar month, Buyer shall make preliminary payment for one-

hundred percent (100%) of the amount owed for the coal (based on the assumption that the coal will meet all guaranteed monthly quality parameters) by the twenty-fifth (25th) day of such month of unloading, except that, if the twenty-fifth (25th) is not a regular work day, payment shall be made on the next regular work day. All preliminary payments shall be calculated based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the first (1st) and fifteenth (15th) days of any calendar month by the 20th of the month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb.

For all coal delivered, as defined in Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and the last day of any calendar month, Buyer shall make a payment for one-hundred percent (100%) of the amount owed for the coal by the tenth (10th) day of the month following the month of unloading, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Also by the tenth (10th) day of the month following the month of unloading of coal at the Delivery Point, a reconciliation of amounts paid and amounts owed during said month shall be made, including, any adjustments for any applicable discounts or other adjustments provided herein, except that, if the tenth (10th) is not a regular work day, payment shall be made on the next regular work day. Seller shall invoice Buyer for all coal delivered pursuant to Article 5 hereof, and unloaded at the Delivery Point between the sixteenth (16th) and last day of any calendar month by the 5th day of the following

month, based upon the then current Base Price on a cents per MMBTU basis as calculated by the guaranteed monthly weighted average BTU/lb. X ~~10/19/10~~ 11/19/10

In the event Seller notifies Buyer that a pattern has developed whereby payments are not being paid when due, as set forth herein, Buyer shall review its internal approval and payment procedures and remedy such payment practices, if any develop. Except as provided in § 9.3 below, the amount of any correct invoice not paid within five (5) business days when due, shall bear interest at six percent (6.0%) per annum based from the date due until such time as the payment is made in full to Seller.

Seller shall provide Buyer its bank wiring and A.C.H. instructions at least two weeks prior to first scheduled payment.

§ 9.3 Withholding. Buyer shall have the right to withhold from payment of any billing or billings (i) any sums which it is not able in good faith to verify or which it otherwise in good faith disputes and (ii) any amounts owed to Buyer from Seller. Buyer shall notify Seller promptly in writing of any such issue, stating the basis of its claim and the amount it intends to withhold. If such disputed amount or damage or likely damages exceed \$100,000, Seller shall have the right to suspend shipments until such time as the dispute is resolved and settlement of withholding occurs.

Payment by Buyer, whether knowing or inadvertent, of any amount in dispute shall not be deemed a waiver of any claims or rights by Buyer with respect to any disputed amounts or payments made. Any disputed amounts withheld by Buyer that are later found to have been

withheld improperly, other than amounts disputed resulting from errors, lack of documentation, or other related incidents surrounding any disputed amount or similar legitimate and reasonable disputes, shall be subject to interest at eight percent (8.0%) per annum based from the date due until such time as the payment is made in full to Seller.

SECTION 10. FORCE MAJEURE.

§ 10.1 General Force Majeure. If either party hereto is delayed in or prevented from performing any of its obligations or from utilizing the coal sold under this Agreement due to acts of God, war, riots, civil insurrection, acts of the public enemy, terrorism, strikes, lockouts, labor disputes, disturbances or unrest, damage to plants, equipment or facilities, fires, floods or earthquakes, inability to obtain permits or authorizations from any governmental authority after prudent and timely submission and application of same, mine accidents that are solely responsible for delaying or preventing performance of Seller, or unanticipated conditions in coal seams not discernable by prudent engineering which are beyond the reasonable control and without the fault or negligence of the party affected thereby, then the obligations of both parties hereto shall be suspended to the extent made necessary by such event; provided that the affected party gives written notice to the other party as early as practicable of the nature and probable duration of the force majeure event. Failure to give such notice and to furnish the designated information shall be deemed a waiver of the affected party's rights under this § 10. The party declaring force majeure shall exercise due diligence to avoid the force majeure event or shorten

its duration and will keep the other party advised as to the continuance of the force majeure event.

During any period in which Seller's ability to perform hereunder is affected by a force majeure event, Seller shall not deliver any coal to any other buyers to whom Seller's ability to supply is similarly affected by such force majeure event unless contractually committed to do so at the beginning of the force majeure event; and further shall deliver to Buyer under this Agreement at least a pro rata portion (on a per ton basis) of its total contractual commitments for all its buyers in place at the beginning of the force majeure event to whom Seller's ability to supply is similarly affected by such force majeure event.

An event which affects the Seller's ability to obtain Substitute Coal will not be considered a force majeure event hereunder. Events of force majeure as defined above affecting a supplier or contractor of a party hereto, other than for the production and shipping of coal, will be treated as the affected party's force majeure provided that the affected party diligently and promptly obtains an alternate source of supply or services.

Buyer reserves the right to purchase replacement coal from other sources during the occurrence of a force majeure event affecting Seller and Seller reserves the right to sell coal to third parties during the occurrence of a force majeure event affecting Buyer. If tonnage deficiencies result from a Seller's or Buyer's declared force majeure event lasting thirty (30) days or less, such deficiencies may be made up at the non-affected party's sole option on a mutually agreed-upon schedule. Any tonnage deficiencies resulting from a Seller's or Buyer's declared

force majeure event lasting longer than thirty (30) days shall not be made up except by mutual agreement of the parties.

In the event that a situation of force majeure that materially affects a party's ability to perform its obligations hereunder continues for a period exceeding sixty (60) days, then the party not claiming force majeure may elect to terminate this Agreement by giving written notice to the affected party. In the event of such termination, neither party shall have any further liability to the other except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

Notwithstanding anything herein to the contrary, if an event occurs that would otherwise be a force majeure event under this Section 10.1, but Seller is still able to perform its obligations hereunder by delivering coal from one or more of the Coal Properties (or portions thereof) that are not affected by such force majeure event without adversely affecting Seller's ability to meet its obligations to deliver coal to third parties pursuant to then existing contracts, then such event shall not be considered a force majeure event hereunder.

§ 10.2 Environmental Law Force Majeure. The parties recognize that, during the continuance of this Agreement, legislative or regulatory bodies or the courts may adopt or amend environmental laws, regulations, policies and/or restrictions which will make it impossible or commercially impracticable for Buyer to utilize this or like kind and quality coal which thereafter would be delivered hereunder. If as a result of the adoption or amendment of such laws, regulations, policies, or restrictions, or change in the interpretation or enforcement thereof, Buyer

decides that it will be impossible or commercially impracticable (uneconomical) for Buyer to utilize such coal, Buyer shall so notify Seller, and thereupon Buyer and Seller shall promptly consider whether corrective actions can be taken in the mining and preparation of the coal at Seller's mine and/or in the handling and utilization of the coal at Buyer's generating station; and if in Buyer's sole judgment such actions will not, without unreasonable expense to Buyer, make it possible and commercially practicable for Buyer to so utilize coal which thereafter would be delivered hereunder without violating, or creating the potential for violation of, any applicable law, regulation, policy or order, Buyer shall have the right, upon the later of sixty (60) days notice to Seller or the effective date of such restriction, to terminate this Agreement without further obligation hereunder on the part of either party hereto except for those obligations or liabilities which may have accrued with respect to performance or defaults prior to said termination.

SECTION 11. CHANGES.

Buyer or Seller may, by mutual agreement, at any time by written notice pursuant to § 12 of this Agreement, make changes within the general scope of this Agreement in any one or more of the following: quality of coal or coal specifications, quantity of coal, method or time of shipments, place of delivery (including transfer of title and risk of loss), method(s) of weighing, sampling or analysis, or government imposition as hereinafter defined, and such other provision as may affect the suitability and amount of coal for Buyer's generating stations.

For the purposes of this Agreement, Government Imposition shall be defined as (i) taxes (other than state or federal income taxes or payroll taxes), (ii) fees and/or costs, including those occasioned by compliance with interpretations of law in force on the date of this Agreement, but only if, the interpretations are issued by a court, governmental agency, or regulatory body, and are different from the interpretations of the relevant laws as they existed on the date of this Agreement (other than fees and/or costs which (a) are brought about by the inefficient operations of Seller, (b) are attributable to Seller's negligence, or (c) are the result of criminal fines or penalties imposed on Seller by any government or governmental agency and relating to the mining, production, severance, preparation, or sale of the coal). The Base Price includes all Government Impositions as of the date of this Agreement.

If any such change makes necessary or appropriate an increase or decrease in the then current Base Price of coal, or in any other provision of this Agreement, an equitable adjustment shall be negotiated in good faith regarding changes in: price, whether current or future or both, and/or in such other provisions of this Agreement as are affected directly or indirectly by such change, and the Agreement shall thereupon be modified in writing accordingly.

Any claim by the Seller for adjustment under this § 11 shall be asserted within thirty (30) days after the date of Seller's receipt of the written notice of change, it being understood, however that Seller shall not be obligated to proceed under this Agreement as changed until an equitable adjustment has been agreed upon. The parties agree to negotiate promptly and in good faith for a period not to exceed thirty (30) days from the date of notice provided by the party

seeking adjustment, to agree upon the nature and extent of any equitable adjustment. In the event the parties cannot agree upon an adjustment, this Agreement shall terminate ninety days from the date on which negotiations cease.

SECTION 12. NOTICES.

§ 12.1 Form and Place of Notice. Any official notice, request for approval or other document required or permitted to be given under this Agreement shall be in writing, unless otherwise provided herein, and shall be deemed to have been sufficiently given when delivered in person, transmitted by facsimile or other electronic media, delivered to an established mail service for same day or overnight delivery, or dispatched in the United States mail, postage prepaid, for mailing by first class, certified, or registered mail, return receipt requested, and addressed as follows:

If to Buyer: Big Rivers Electric Corporation
201 Third Street (physical zip code 42420)
P.O. Box 24
Henderson, Kentucky 42419-0024
Attn: Director, Fuels Procurement

If to Seller: Allied Resources, Inc.
15 New Steamport Road
Sebree, Kentucky 42455
Attn: President

§ 12.2 Change of Person or Address. Any party may change the person or address specified above upon giving written notice to the other party of such change.

§ 12.3 Electronic Data Transmittal. Seller hereby agrees, at Seller's reasonable cost, to electronically transmit shipping notices and/or other data to Buyer in a format acceptable to and established by Buyer upon Buyer's reasonable request. Buyer shall provide Seller with the appropriate format and will inform Seller as to the electronic data transmission requirements at the appropriate time.

SECTION 13. INDEMNITY AND INSURANCE.

§ 13.1 Indemnity. Seller agrees to indemnify and save harmless Buyer, its officers, directors, employees and representatives from any responsibility and liability for any and all claims, demands, losses, legal actions for personal injuries, including death, property damage and pollution (including reasonable inside and outside attorney's fees) (the "Claims") (i) relating to the trucks provided by Seller or Seller's contractor while such trucks are delivering coal to the Delivery Point, (ii) due to any failure of Seller, their respective employees, agents, representatives, contractors or subcontractors, to comply with any laws, regulations or ordinances, relative to Seller's performance of this Agreement, or (iii) due to the acts or omissions of Seller, their respective employees, agents, representatives, contractors or subcontractors.

Buyer agrees to indemnify and save harmless Seller, its officers, directors, employees and representatives from any responsibility and liability for any and all Claims relating to the

ownership or use of the coal from and after the time that the coal is delivered to Buyer at the Delivery Point.

§ 13.2 Insurance. Seller agrees to carry insurance coverage with minimum limits as follows.

(a) Commercial General Liability, including Completed Operations and Contractual Liability, \$1,000,000 single limit liability.

(b) Automobile General Liability, \$1,000,000 single limit liability.

(c) In addition, Seller shall carry excess liability insurance covering the foregoing perils in the amount of \$4,000,000 for any one occurrence.

(d) Workers' Compensation and Employer's Liability with statutory limits.

If any of the above policies are written on a claims made basis, then the retroactive date of the policy or policies will be no later than the effective date of this Agreement. Prior to the execution of this Agreement, Certificates of Insurance satisfactory in form to the Buyer and signed by the Seller's insurer shall be supplied by the Seller to the Buyer evidencing that the above insurance is in force and that not less than thirty (30) calendar days written notice will be given to the Buyer prior to any cancellation or material reduction in coverage under the policies. The Seller shall cause its insurer to waive all subrogation rights against the Buyer respecting all losses or claims arising from performance hereunder. Evidence of such waiver satisfactory in form and substance to the Buyer shall be exhibited in the Certificate of Insurance mentioned above. Seller's liability shall not be limited to its insurance coverage.

SECTION 14. TERMINATION FOR DEFAULT.

If either party hereto commits a material breach of any of its obligations under this Agreement at any time, including but not limited to a breach of a representation or warranty, then the other party has the right to give written notice describing such breach and stating its intention to terminate this Agreement no sooner than fifteen (15) days after the date of the notice (the "Notice Period"). If such material breach is curable and the breaching party cures such material breach within the Notice Period, then the Agreement shall not be terminated due to such material breach. If such material breach is not curable or the breaching party fails to cure such material breach within the Notice Period, then this Agreement shall terminate at the end of the Notice Period in addition to all the other rights and remedies available to the aggrieved party under this Agreement and at law and in equity.

SECTION 15. TAXES, DUTIES AND FEES.

Seller shall pay when due, and the price set forth in § 8 of this Agreement shall be inclusive of, all taxes, duties, fees and other assessments of whatever nature imposed by governmental authorities with respect to the transactions contemplated under this Agreement except as provided in Section 11. Changes.

SECTION 16. DOCUMENTATION AND RIGHT OF AUDIT.

Seller and Buyer shall maintain all records and accounts pertaining to payments, quantities, quality analyses, and source for all coal supplied under this Agreement for a period lasting through the term of this Agreement and for two (2) years thereafter. Buyer and Seller shall have the right at no additional expense to audit, copy and inspect such records and accounts at any reasonable time upon reasonable notice during the term of this Agreement and for two (2) years thereafter.

SECTION 17. EQUAL EMPLOYMENT OPPORTUNITY.

To the extent applicable, Seller shall comply with all of the following provisions which are incorporated herein by reference: Equal Employment Opportunity regulations set forth in 41 CFR § 60-1.4(a) and (c) prohibiting discrimination against any employee or applicant for employment because of race, color, religion, sex, or national origin; Vietnam Era Veterans Readjustment Assistance Act regulations set forth in 41 CFR § 50-250.4 relating to the employment and advancement of disabled veterans and veterans of the Vietnam Era; Rehabilitation Act regulations set forth in 41 CFR § 60-741.4 relating to the employment and advancement of qualified disabled employees and applicants for employment; the clause known as "Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals" set forth in 15 USC § 637(d)(3); and subcontracting plan requirements set forth in 15 USC § 637(d).

SECTION 18. COAL PROPERTY INSPECTIONS.

Buyer and its representatives and others as may be required by applicable laws, ordinances and regulations shall have the right, but not the obligation, upon reasonable notice at reasonable times and at their own expense to inspect the Coal Property, including the loading facilities, scales, sampling system(s), wash plant facilities, and mining equipment for conformance with this Agreement. Seller shall undertake reasonable care and precautions to prevent personal injuries to any representatives, agents or employees of Buyer (collectively, "Visitors") who inspect the Coal Property. Any such Visitors shall comply with Seller's regulations and rules regarding conduct on the work site, made known to Visitors prior to entry, as well as safety measures mandated by state or federal rules, regulations and laws. Buyer understands that coal mines and related facilities are inherently high-risk environments. Buyer's failure to inspect the Coal Property or to object to defects therein at the time Buyer inspects the same shall not be construed as constituting an approval of Seller's mining plan or mining practices, relieve Seller of any of its responsibilities, nor be deemed to be a waiver of any of Buyer's rights hereunder.

SECTION 19. MISCELLANEOUS.

§ 19.1 Applicable Law. This Agreement shall be construed in accordance with the laws of the Commonwealth of Kentucky, and all questions of performance of obligations hereunder shall be determined in accordance with such laws, without regard to choice of law principles.

§ 19.2 Headings. The paragraph headings appearing in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

§ 19.3 Waiver. The failure of either party to insist on strict performance of any provision of this Agreement, or to take advantage of any rights hereunder, shall not be construed as a waiver of such provision or right.

§ 19.4 Remedies Cumulative. Remedies provided under this Agreement shall be cumulative and in addition to other remedies provided under this Agreement or by law or in equity.

§ 19.5 Severability. If any provision of this Agreement is found contrary to law or unenforceable by any court of law, the remaining provisions shall be severable and enforceable in accordance with their terms, unless such unlawful or unenforceable provision is material to the transactions contemplated hereby, in which case the parties shall negotiate in good faith a substitute provision.

§ 19.6 Binding Effect. This Agreement shall bind and inure to the benefit of the parties and their successors and assigns.

§ 19.7 Assignment. Neither party may assign this Agreement or any rights or obligations hereunder without the prior written consent of the other party, which consent shall not be unreasonably withheld or denied. Notwithstanding the foregoing, no consent is required for an assignment or other transfer by a party as part of a merger, reorganization or consolidation involving such party.

§ 19.8 Entire Agreement. This Agreement contains the entire agreement between the parties as to the subject matter hereof, and there are no representations, understandings or agreements, oral or written, which are not included herein.

§ 19.9 Amendments. Except as otherwise provided herein, this Agreement may not be amended, supplemented or otherwise modified except by written instrument signed by both parties hereto.

§ 19.10 Brokers. Seller hereby indemnifies and holds Buyer harmless from all losses, costs, demands, and expenses Buyer may incur in connection with claims made against Buyer by any brokers claiming by, through or on behalf of Seller arising from this Agreement.

SECTION 20. CONFIDENTIALITY

Seller and Buyer agree to maintain in strict confidence the terms and conditions of this Agreement and any information or data relating hereto exchanged or obtained by the parties during negotiation and performance of this Agreement. Neither Buyer nor Seller shall disclose any of the terms and conditions hereof to any third party (except to affiliates of Seller or Buyer) without the prior written consent of the other party, except where such disclosure may be required by law or in connection with a judicial or administrative proceedings before courts, regulatory bodies, or agencies such as the Kentucky Public Service Commission involving a party hereto, in which event the party intending to make such disclosure shall advise the other in advance and cooperate to minimize the disclosure to the extent possible. The obligations of

Buyer and Seller arising under this § 20, shall continue for a period of three (3) years following termination or expiration of this Agreement.

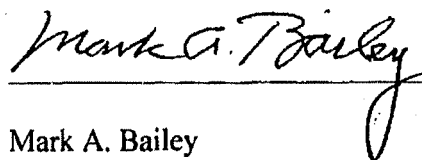
SECTION 21. ETHICAL DEALING

Each party represents and warrants that it has not given or received and shall not give or receive any commission, payment, kickback, secret rebate or other thing of value to or from any employee or agent of the other party or to any supplier of services in connection with this Agreement. Each party acknowledges that the giving or receiving of any such commission, payment, kickback, secret rebate or other thing of value constitutes a breach of ethical standards, is potentially in violation of applicable law and may result in immediate termination of this and other outstanding agreements between the parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the date corresponding to each of their signature blocks below, but this Agreement shall be effective as of the date first above written.

BUYER:

BIG RIVERS ELECTRIC COMPANY



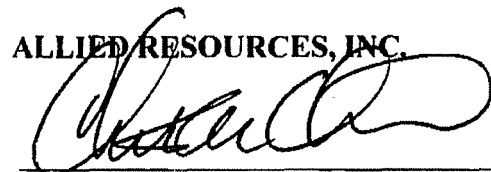
Mark A. Bailey

Chief Executive Officer and President

Date: 1-19-10

SELLER:

ALLIED RESOURCES, INC.



Chester M. Thomas

President

Date: 1-18-10

Contract: BRE-09-016

Document comparison done by Workshare DeltaView on Friday, January 15, 2010
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Document 2	interwovenSite://LEXDMS1/LEXLibrary/415281/1
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Insertion	
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Split/Merged cell	
Padding cell	

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Format changed	0
Total changes	18

RESPONSE OF BIG RIVERS ELECTRIC CORPORATION
TO COMMISSION STAFF MARCH 23, 2010
POST-HEARING DATA REQUESTS
PSC CASE NO. 2009-00510
MARCH 31, 2010

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Item 4 *Please explain why, as noted in your response to Item 19, the lowest bid was not the bid accepted. Include this explanation in future FAC proceeding data request responses where this same circumstance arises.*

Response)

REDACTED

Witness) Mark W. McAdams