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October 22, 2013

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HAND DELIVERED

Jeff R. Derouen
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Public Service Commission
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RECEIVED

OCT 22 2013

**PUBLIC SERVICE
COMMISSION**

RE: Case No. 2012-00578

Dear Mr. Derouen:


In conformity with the Commission's October 7, 2013 order in the above matter, please find and accept for filing in the record of this proceeding an original and ten copies of the filing recently made with the Federal Energy Regulatory Commission of the revised rate schedule and corresponding Tariff Record ID for the Mitchell Plant Operating Agreement among Kentucky Power Company, AEP Generation Resources Inc., and American Electric Power Service Corporation ("Superseding Mitchell Agreement").

The Company also is filing with the Commission the original and ten copies of the Request Of American Electric Power Service Corporation For Waiver Of Certain Affiliate Restrictions And Expedited Treatment.

A copy of the Superseding Mitchell Agreement and the request for waiver and expedited treatment are being served today by United States Mail, postage prepaid, on counsel for all parties, along with a copy of this letter.

STITES & HARBISON PLLC
ATTORNEYS

Jeff R. Derouen
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Very truly yours,

Mark R. Overstreet

MRO

cc: Jennifer B. Hans
Michael L. Kurtz
Shannon Fisk
Joe Childers
Kristin Henry

I. REQUEST FOR EXPEDITION

This waiver request is related to the corporate restructuring of Ohio Power, a public utility affiliate of the Applicants. In accordance with restructuring requirements in the State of Ohio, on or about December 31, 2013, Ohio Power will transfer its generation assets to AEP Generation Resources, a newly-formed generation affiliate (the “Corporate Reorganization”). The Commission has issued orders approving key aspects of the Corporate Reorganization, and those orders detail the overall arrangements that will need to be in place to meet Ohio’s restructuring requirements.²

Implementing Corporate Reorganization has been—and will continue to be right up through closing—a substantial and complex undertaking. This is a comprehensive, multi-billion dollar transaction in which numerous Ohio Power generating plant assets are expected to be transferred to a new company that will provide services subject to operating procedures and guidelines that must comply with a wide array of regulatory requirements. For example, how KPCo and AEP Generating Resources will be permitted to operate their jointly-owned Mitchell Plant, which is the focus of this Request, is a key piece of the Corporate Reorganization puzzle. As AEP has explained in prior filings, AEP seeks to secure all required approvals sufficiently in advance of the December 31, 2013 closing to ensure that the transaction can be closed as contemplated. AEP respectfully requests, therefore, that the Commission issue an order in this

² See, e.g., *Ohio Power Co.*, 143 FERC ¶ 61,075 (2013) (granting Section 203 approval for the transfer of Ohio Power’s generation assets and power marketing businesses to AEP Generation Resources); and *Appalachian Power Co.*, 143 FERC ¶ 61,074 (2013) (granting Section 203 approvals for the transfer of certain AEP Generation Resources’ generating facilities to KPCo and Appalachian Power Company (“APCo”)). Various interrelated Section 205 filings are pending before the Commission in Docket Nos. ER13-232, ER13-233, ER13-234, ER13-235, ER13-236, ER13-237, ER13-238, ER13-239, and ER13-240.

proceeding on or before Monday, December 16, 2013, in order to allow an orderly closing on December 31, 2013.

II. INTRODUCTION

This Request is closely related and very similar to a request that AEPSC submitted on June 28, 2013, in Docket No. ER13-1874, on behalf of the AEP East Operating Companies³ and AEP Generation Resources (“June 28 Waiver Request”).⁴ As explained more fully in that request, Ohio Power’s generation assets have been operated and maintained along with the generation assets of the other AEP East Operating Companies as part of a single, integrated generation fleet, and this arrangement has produced benefits and cost savings to customers for over sixty years. After Ohio Power’s generation assets are transferred to AEP Generation Resources pursuant to the Corporate Reorganization, AEP seeks to preserve some of the efficiencies and cost savings under the current arrangement in a manner that is consistent with the Commission’s requirements.

Applicants are now submitting this Request because of a recent decision by the one of AEP’s state regulatory commissions that had the effect of modifying a key aspect of AEP’s proposed Corporate Reorganization, namely APCo’s intent to obtain from AEP Generation

³ The AEP East Operating Companies are APCo, KPCo, Indiana Michigan Power Company (“I&M”), AEP Generating Company (“AEP Generating”), Kingsport Power Company (“Kingsport”), and Wheeling Power Company (“Wheeling”). Kingsport and Wheeling do not own or operate generation.

⁴ In the June 28 Waiver Request, AEPSC asked for waivers to enable the AEP East Operating Companies and AEP Generation Resources to: (i) share certain outage related services and resources; (ii) participate in a capital parts pool and central machine shop arrangements; and (iii) share certain employees, including fuel procurement employees, with respect to the operation of the Phillip Sporn Plant that will be jointly owned by APCo and AEP Generation Resources. On September 19, 2013, AEPSC provided additional information in response to a request by the Commission’s Staff. No party protested or raised any concerns as to the June 28 Waiver Request or the September 19 response.

Resources a 50 percent undivided interest in the Mitchell Plant, which the Commission had previously approved in Docket No. EC13-28.⁵ Specifically, on July 31, 2013, the Virginia State Corporation Commission (“Virginia Commission”) issued a decision denying authorization for APCo to obtain an undivided 50 percent ownership interest in the Mitchell Plant, as originally was proposed under the Corporate Reorganization.⁶ The Kentucky Public Service Commission authorized KPCo’s acquisition of an undivided 50 percent interest in the Mitchell Plant by order issued on October 7, 2013.⁷

In response to the Virginia Commission’s ruling, instead of APCo and KPCo each owning an undivided 50 percent interest in the Mitchell Plant, beginning December 31, 2013, AEP Generation Resources and KPCo will be the joint owners of the plant with each holding an undivided 50 percent interest.⁸ Accordingly, the Mitchell Plant will be co-owned by a traditional franchised public utility with captive customers (KPCo), and a market-regulated power sales affiliate (AEP Generation Resources). As a result of this change, KPCo, AEP Generation Resources, and AEPSC will enter into the Mitchell Plant Operating Agreement (“Mitchell

⁵ See *Appalachian Power Co.*, 143 FERC ¶ 61,074 (2013). The Commission also approved APCo’s acquisition of Ohio Power’s former interest in Unit No. 3 of the John E. Amos Plant and appurtenant interconnection facilities, and KPCo’s acquisition of the remaining 50 percent undivided interest in the Mitchell Plant.

⁶ Virginia State Corporation Commission, Case No. PUE-2012-00141, *Order* (July 31, 2013); available at: www.scc.virginia.gov/case/e-notice/ne130057.pdf. As of the date of this filing, the Public Service Commission of West Virginia has not yet acted on APCo’s request for authorization to acquire interests in the Amos Plant and the Mitchell Plant, but its ruling will not change the fact that, as a result of the Virginia Commission’s ruling, APCo will not be acquiring an interest in the Mitchell Plant on December 31, 2013.

⁷ Kentucky Public Service Commission, Case No. 2012-00578 (October 7, 2013); available at: http://psc.ky.gov/order_vault/Orders_2013/201200578_10072013.pdf.

⁸ Although the current plan is for AEP Generation Resources to own a 50 percent interest in the Mitchell Plant, nothing herein should be construed to foreclose a subsequent transfer of that interest to APCo, subject to APCo obtaining all necessary approvals for such transfer.

Operating Agreement”), under which KPCo and AEPSC will provide certain O&M services, including fuel procurement services, to the Mitchell Plant.⁹

Applicants seek certain waivers of the Commission’s affiliate restrictions in connection with the proposed services that will be provided under the Mitchell Operating Agreement. Granting the requested waivers will not result in harm to captive customers, and is consistent with the Commission’s decision in a number of recent cases involving similar sets of facts. As noted earlier, this Request closely tracks the June 28 Waiver Request as it relates to APCo’s operation of the Philip Sporn Plant, which, as a result of the Corporate Reorganization, will be jointly owned by APCo and AEP Generating Resources.

III. CORRESPONDENCE AND COMMUNICATIONS

Applicants request that correspondence and communications related to this proceeding be served on the following persons:

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⁹ The Mitchell Operating Agreement is contemporaneously being submitted for the Commission’s acceptance in a companion Section 205 filing.

A copy of this Request has been served upon each of the state utility commissions with jurisdiction over the AEP East Operating Companies and will be posted on AEP's website at: <http://www.aep.com/investors/CurrentRegulatoryActivity/regulatory/ferc.aspx>

IV. BACKGROUND

A. Description of the Applicants and Related Parties

1. AEP and AEPSC

American Electric Power Company, Inc. ("AEP") is a multi-state electric utility holding company system whose operating companies provide electric service at wholesale and retail in parts of eleven states. Those AEP operating companies that are located within the footprint of PJM Interconnection, L.L.C. ("PJM") are referred to as the "AEP East Operating Companies." AEP also has four other operating companies that are located in the Southwest Power Pool ("SPP") and the Electric Reliability Council of Texas ("ERCOT") (referred to as the "AEP West Operating Companies").¹⁰ However, the AEP West Operating Companies are not affected by the Corporate Reorganization or by this Request.

AEPSC is a service company that provides management and professional services to AEP and its utility operating subsidiaries, including accounting, administrative, information systems, engineering, financial, legal, maintenance and other services at cost. AEPSC also performs various marketing, generation dispatch, outage and maintenance coordination, fuel procurement,

¹⁰ The AEP operating companies that are located within the SPP footprint are referred to as the "AEP SPP" companies: Southwestern Electric Power Company serves customers in Arkansas, Louisiana, and the SPP portion of Texas, and Public Service Company of Oklahoma serves customers in Oklahoma. AEP Texas Central Company and AEP Texas North Company serve customers in the ERCOT portion of Texas. PJM and SPP are Commission-approved Regional Transmission Organizations ("RTOs"), and the AEP East and AEP SPP companies have transferred functional control of their transmission facilities to PJM and SPP, respectively. AEP utilities in ERCOT have transferred functional control of their transmission facilities to the ERCOT RTO.

and power-related risk management and trading activities on behalf of the AEP East Operating Companies.¹¹

B. KPCo

KPCo is a public utility that engages in the generation, transmission, and distribution of electric power in Kentucky. KPCo serves about 173,000 retail customers in eastern Kentucky. KPCo makes sales to two wholesale customers under cost-based formula rate agreements.¹² KPCo's total owned generating capacity is currently about 1,080 MW.

C. AEP Generation Resources

AEP Generation Resources is an indirect, wholly-owned subsidiary of AEP. AEP Generation Resources was formed on December 8, 2011, as a direct subsidiary of Ohio Power for the purposes of owning and operating the generating assets of Ohio Power. Pursuant to the Corporate Reorganization, AEP Generation Resources will own the generating facilities currently owned by Ohio Power as a stand-alone generating company (other than the Mitchell

¹¹ AEPSC also provides similar services for the AEP West Operating Companies. In the provision of these services to its public utility affiliates, AEPSC charges its costs consistent the Commission's affiliate pricing rules. *See* 18 C.F.R. § 35:44(b)(3) (a franchised public utility with captive customers or that owns or provides transmission service over jurisdictional facilities may only purchase or receive non-power goods and services from a centralized service company at cost); *see also Cross-Subsidization Restrictions on Affiliate Transactions*, Order No. 707, FERC Stats. & Regs. ¶ 31,264 at P 72, *order on reh'g*, Order No. 707-A, FERC Stats. & Regs. ¶ 31,272 (2008).

¹² KPCo's wholesale cost-based formula agreements are with the City of Olive Hill, Kentucky City and the City of Vanceburg, Kentucky. The City of Olive Hill agreement is KPCo Rate Schedule 52, which was initially accepted for filing by letter order on January 25, 2006, in Docket No. ER06-358. The City of Vanceburg agreement is KPCo Rate Schedule 51, which was initially accepted for filing by letter order on January 25, 2006, in Docket No. ER06-340. Under the Commission's regulations, KPCo is a franchised public utility with captive customers and its interactions with AEP Generation Resources are subject to the Commission's affiliate restrictions codified at 18 C.F.R. § 35.39.

Plant and the Amos Unit No. 3, interests in which will be transferred to KPCo and APCo, respectively). AEP Generation Resources will own approximately 10,000 MW of generation. Although AEP Generation Resources will not be a traditional franchised public utility with captive customers, it will have a contractual obligation to supply capacity and energy to Ohio Power through May 31, 2015, to enable Ohio Power to provide service to retail customers who are not served by alternative retail electric service providers.

Upon closing of the proposed Corporate Reorganization, AEP Generation Resources will be an indirect, wholly-owned subsidiary of AEP, but it will no longer be in the chain of ownership of Ohio Power. Thus, the Corporate Reorganization will achieve structural corporate separation of Ohio Power's generation and marketing businesses from its transmission and distribution businesses. AEP Generation Resources will be part of the AEP corporate family, and it and its utility affiliates will obtain certain corporate services from AEPSC, consistent with the Commission's applicable affiliate restrictions, except to the extent the Commission has granted a waiver therefrom.

V. THE MITCHELL OPERATING AGREEMENT

The Mitchell Operating Agreement, which is proposed to become effective on January 1, 2014, sets forth the terms under which KPCo will operate and maintain the Mitchell Plant, and AEPSC (as agent for KPCo and AEP Generation Resources) will provide various services to the owners.

The Mitchell Operating Agreement sets out KPCo's and AEPSC's respective functions, including their obligations to operate and maintain the plant in accordance with good utility practices, to maintain the necessary books, records, and joint bank accounts for transactions involving the Mitchell Plant, and to prepare statements detailing for AEP Generation Resources

the monthly costs associated with operating and maintaining the plant.¹³ The Mitchell Operating Agreement also provides for the apportionment of capacity and energy between KPCo and AEP Generation Resources.¹⁴ It also provides that each party will independently dispatch its share of generating capacity in the Mitchell Plant.¹⁵

The Mitchell Operating Agreement sets forth each party's responsibilities and obligations for the costs of installing additional or replacement components at the plant. It specifies generally that the cost of facilities for jointly-owned property will be allocated in accordance with the ratio of each owner's ownership interest.¹⁶

The Mitchell Operating Agreement provides that KPCo will operate and maintain the Mitchell Plant in accordance with good utility practice. In this regard, KPCo may obtain such materials, labor, and other services as it deems necessary in connection with the performance of its functions under the agreement.¹⁷ Those KPCo employees performing services at the Mitchell Plant will be field and maintenance personnel and they will not be engaged in the wholesale marketing function or have any marketing responsibilities.

Under the Mitchell Operating Agreement, there will be an Operating Committee consisting of representatives of each owner and AEPSC, as agent. The Operating Committee will have the following responsibilities: (a) review and approval of annual budgets and operating plans, including determination of the emission allowances required to be acquired by the owners; (b) establishment of dispatch and unit commitment procedures; (c) establishment of

¹³ See §1 of the Mitchell Operating Agreement.

¹⁴ *Id.*, §§ 2, 7.6.

¹⁵ *Id.*, § 2.3.

¹⁶ *Id.*, § 3.

¹⁷ *Id.*, § 1.5.

communication and coordination protocols with respect to Mitchell Plant capacity availability, fuel-firing options, scheduling of the generating capacity, including scheduling of outages or maintenance, repairs, equipment replacements, inspections, and other foreseeable cause of outages, as well as the return of any unit to availability following an unplanned outage; (d) decisions on capital expenditures; (e) determination of changes in unit capability and retirement(s); (f) establishment of billing procedures; (g) approval of fuel specifications, material contracts for fuel, transportation, and consumables, and establishment of procurement rights and procedures if an owner elects to purchase fuel for its own interest; (h) review and approval of changes to the Mitchell Plant operating procedures; (i) plans to comply with environmental laws and other regulations, ordinances, and permits; and (j) other duties as assigned by agreement of the owners of the Mitchell Plant.¹⁸ The Operating Committee will meet at least annually.¹⁹ Decisions by the Operating Committee must be agreed to by KPCo and AEP Generation Resources.

It is important to note that KPCo and AEP Generation Resources each will have sole responsibility for marketing its share of the output of Mitchell Plant. In other words, there will be no joint marketing and neither party will share marketing information or personnel with the other party, as AEPSC (as agent for KPCo) and AEP Generation Resources will separately communicate with PJM to bid their respective shares of the output from the Mitchell Plant into the PJM markets. KPCo and AEP Generation Resources will not share personnel who create

¹⁸ *Id.*, § 7.2.

¹⁹ *Id.*, § 7.3.

economic dispatch schedules, and they are not seeking a waiver of the separation of functions requirement with respect to economic dispatch.²⁰

As relevant to this Request, AEPSC will be engaged in the procurement of fuel and fuel deliveries for the Mitchell Plant.²¹ The Mitchell Operating Agreement provides for KPCo and AEPSC to establish and maintain sufficient coal stock piles to provide adequate fuel reserves for normal operations, and for the owners to make monthly investments in the common coal stock piles.²² KPCo's and AEP Generation Resources' respective shares of the investment in the common coal stock piles will be proportionate to their ownership shares in the Mitchell Plant.

The Mitchell Operating Agreement apportions the station costs, including fuel expenses, between KPCo and AEP Generation Resources.²³ For example, KPCo's and AEP Generation Resources' respective shares of the monthly costs of the fuel consumed at the Mitchell Plant will be proportionate to their dispatch in each month. KPCo and AEP Generation Resources will each incur the same monthly unit cost for its allocated share of fuel (including the cost of transportation). In other words, each party will incur exactly the same monthly per unit cost of

²⁰ See *Entergy Services, Inc.*, 136 FERC ¶ 61,218 at n.17 (2011) ("*Entergy*") (noting that there is no need to seek a waiver of the separation of functions requirements when there is no proposed sharing of personnel who create economic dispatch schedules). Section 7.6 of the Mitchell Operating Agreement provides for an alternate set of procedures under which one party may call on the capacity that the other party has not committed to schedule. That section expressly provides, however, that the parties will not implement this arrangement until the Operating Committee has agreed upon specific procedures and the parties have obtained the regulatory approvals or waivers necessary for this dispatch arrangement. KPCo and AEP Generating Resources will not implement the dispatch provisions in Section 7.6 without first obtaining the Commission's authorization.

²¹ Mitchell Operating Agreement at § 5. Section 5.1 provides, however, that an owner may exercise its right to directly purchase fuel and make transportation arrangements on its own behalf. If an owner exercised that right, AEPSC would no longer provide a shared fuel procurement service for the Mitchell Plant.

²² *Id.*, § 5.1.

²³ *Id.*, § 6.

fuel thereby ensuring that lower-cost fuel cannot be allocated to AEP Generation Resources.²⁴

The Mitchell Operating Agreement also apportions the monthly operating and maintenance costs in accordance with the ownership interests (which will be 50/50).²⁵

VI. REQUESTED WAIVERS RELATED TO THE JOINTLY-OWNED MITCHELL PLANT

The Commission's affiliate rules provide that to the maximum extent practical, the employees of a market-regulated power sales affiliate must operate separately from the employees of any affiliated franchised public utility with captive customers.²⁶ The Commission, however, permits franchised public utilities with captive customers and their market-regulated power sales affiliates to share certain employees, namely support employees, field and maintenance employees, senior officers, and boards of directors, provided that such employees are not engaged in wholesale marketing functions.²⁷ With respect to employees who are engaged

²⁴ *Id.*, § 6.1(a).

²⁵ *Id.*, § 6.

²⁶ 18 C.F.R. § 35.39(c) (2013).

²⁷ 18 C.F.R. § 35.39(c)(ii). The Commission has clarified that "support employees" include legal, accounting, human resources, travel, information technology, and risk management personnel. *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, Order No. 697, FERC Stats. & Regs. ¶ 31,252 at P 564 (2007); *order on clarification*, 121 FERC ¶ 61,260 (2007); *order on reh'g*, Order No. 697-A, FERC Stats. & Regs. ¶ 31,268 at P 256 (2008); *order on reh'g*, Order No. 697-B, FERC Stats. & Regs. ¶ 31,285 (2008); *order on reh'g*, Order No. 697-C, FERC Stats. & Regs. ¶ 31,291 (2009); *order on reh'g*, Order No. 697-D, FERC Stats. & Regs. ¶ 31,305 (2010), *order on clarification*, 131 FERC ¶ 61,021 (2010); *order denying reh'g*, 134 FERC ¶ 61,046 (2011); *aff'd sub nom. Montana Consumer Counsel v. FERC*, 659 F.3d 910 (9th Cir. 2011). The Commission has further clarified that field and maintenance employees include technical and engineering personnel engaged in generation-related activities, provided that such employees do not themselves (1) buy or sell energy; (2) make economic dispatch decisions; (3) determine (as opposed to implement) outage schedules; or (4) engage in power marketing activities. Order No. 697-A at P 251. The Commission has also stated that utilities may share employees and supervisors who have the authority to curtail or stop the operation of generation facilities solely for operational reasons, including emergency forced outages. *Id.* at P 253.

in fuel procurement, outage scheduling, economic dispatch, and resource planning, the Commission stated that it will consider requests for waiver on a case-by-case basis.²⁸ Because the Mitchell Plant will be jointly owned by KPCo and AEP Generation Resources, with each holding an undivided 50 percent interest, Applicants are seeking limited waiver of affiliate restrictions in connection with the operations of the Mitchell Plant.²⁹ As discussed below, the waiver is consistent with waivers that the Commission previously granted under similar circumstances.

1. Request for Waiver of Restrictions Against the Sharing of Employees and Market Information and the Asymmetrical Pricing Rule

As noted above, under the Mitchell Operating Agreement, KPCo employees will provide O&M services to the Mitchell Plant. For these services, KPCo proposes to charge AEP Generation Resources its fully loaded costs. Further, there will be an Operating Committee that will have certain responsibilities as discussed above. Notably, members of the Operating Committee will be senior managers of AEPSC, KPCo, and AEP Generation Resources, who will not have any day-to-day responsibility for wholesale marketing functions. In carrying out their responsibilities under the Mitchell Operating Agreement, the Operating Committee necessarily will discuss key operational matters relating to the Mitchell Plant, and there exists the potential for the exchange of what could be deemed “market information,” such as outage schedules and

²⁸ See *Market-Based Rates for Wholesale Sales of Elec. Energy, Capacity, and Ancillary Servs. by Pub. Utils.*, 134 FERC ¶ 61,046 at PP 22-24 (2011), *reh'g denied*, 143 FERC ¶ 61,126 (2013); *Market-Based Rate Affiliate Restrictions*, 134 FERC ¶ 61,047 at P 28 (2011), *reh'g denied*, 143 FERC ¶ 61,127 (2013).

²⁹ In the June 28 Waiver Request, AEPSC requested waiver of the Commission’s affiliate restrictions so as to permit AEPSC to perform certain outage functions on behalf of the AEP East Operating Companies and AEP Generation Resources. If the Commission grants that request, the outage planning for the Mitchell Plant would be subject to the procedures proposed in the June 28 Waiver Request.

the cost of fuel to be procured for the plant.³⁰ The Operating Committee will not be discussing the actual marketing of the output of the owners' respective interests in the plant.

The KPCo and AEPSC employees who will provide services to the Mitchell Plant, including O&M services, will be technical/engineering personnel and will not be engaged in marketing functions or have marketing responsibilities. Thus, the proposed sharing of these personnel is permitted under Commission's regulations and precedent. Similarly, to the extent that the members of the Operating Committee are senior managers of KPCo and AEP Generation Resources, they will not have day-to-day responsibility for marketing functions. As such, the sharing of information that could be deemed "market information" among those Operating Committee members should be permitted under 18 C.F.R. § 35.39(d)(2). To the extent that the Operating Committee includes KPCo and/or AEP Generation Resources employees who are not "senior managers," however, Applicants seek waiver of the Commission's affiliate restrictions to enable those employees to access the information that necessarily would be shared in connection with the joint ownership of the Mitchell Plant and implementation of the Mitchell Operating Agreement.³¹ Again, any such employees will not be marketing employees or have marketing responsibilities.

The Commission has granted similar waiver requests in several other cases. For example, in *Cleco Power LLC*, 130 FERC ¶ 61,102 (2010) ("*Cleco Power*"), the Commission waived certain affiliate restrictions in order to allow joint operations of a generating plant co-

³⁰ Moreover, any AEP Generation Resources employees who are on-site at the Mitchell Plant naturally will be aware of which units are running or not running.

³¹ Applicants further request that, based on the same rationale and subject to the same restrictions, representatives of AEP Generation Resources be permitted to have access to plant operation and maintenance information ahead of the actual closing in order for them to be prepared to assume ownership upon the closing.

owned by a franchised public utility with captive customers and its market-regulated power sales affiliate. Specifically, the Commission granted, among other things, a waiver to allow the sharing of certain employees who would perform operation and maintenance services at the generation plant.

The Commission also granted the request for a waiver of the restrictions on information sharing. The Commission based its decision to grant these waivers on the “conjoined nature of the facilities,” namely the fact that the co-owned units were located close to each other and “each power block depends on the common facilities, maintenance outages must be coordinated, and such coordination would most efficiently be performed by [the franchised public utility’s] employees.”³² The Commission added that the waivers were consistent with its precedent to “grant waiver of the market-based rate code of conduct’s information sharing restrictions for the limited purpose of allowing the continued sharing of information to the extent necessary to manage the physical operations at conjoined facilities, and to allow practical and efficient operation of the conjoined facilities.”³³ The Commission has granted similar waiver requests involving conjoined facilities, and should do so here, as the rationale in these cases applies with equal force to the Mitchell Plant.³⁴

³² *Cleco Power* at P 22.

³³ *Id.* at P 23 n.38.

³⁴ *See, e.g., FirstEnergy Corp.*, 136 FERC ¶ 61,216 at PP 15-17 (2011) (“*FirstEnergy*”) (granting waiver of the separation of functions requirements and the information sharing requirements to allow the sharing of outage scheduling, fuel procurement and economic dispatch at certain jointly-owned generating units); *Entergy* at P 26 (granting waiver of the separation of functions requirements and the information sharing requirements in connection with certain jointly-owned fossil fuel generating units); and *Allegheny Energy, Inc.*, 119 FERC ¶ 61,025 at P 20 (2007) (“*Allegheny Energy*”) (recognizing the need for practical and efficient operation of conjoined facilities in granting waiver of a utility’s market-based rate code of conduct).

Applicants also seek waiver of the asymmetrical pricing rule related to the provision of O&M services to be provided by KPCo on behalf of AEP Generation Resources. Under Section 35.39(e)(1) of the Commission's regulations, the provision of non-power goods or services by a franchised public utility with captive customers to a market-regulated power sales affiliate must be at the higher of cost or market price. KPCo seeks to charge AEP Generation Resources its fully-allocated cost of service but, as discussed below, Applicants submit that using at-cost pricing will not give rise to inappropriate cross-subsidization concerns that would harm captive customers.

First, KPCo does not provide generation-related O&M services to third parties.³⁵ Thus, it cannot be said that KPCo will be foregoing profits that it could earn from third parties when it provides such services to AEP Generation Resources at cost. In Order No. 707-A, the Commission stated that there would be no foregone profits from selling at cost, even where market prices are higher, where the utility is not providing these goods or services to non-affiliates.³⁶ Moreover, because of the co-owned nature of the Mitchell Plant (with each party having an undivided 50 percent interest), it is not practicable to have two different groups provide O&M.

The waiver request is consistent with the Commission's granting of a similar waiver request in *Cleco Power*, which allowed the franchised public utility with captive customers to provide O&M services to its market-regulated power sales affiliate at its fully allocated cost of service. The Commission conditioned the waiver on the requirement that the franchised public

³⁵ KPCo provides very limited O&M services at certain transmission and distribution customers' substations.

³⁶ Order No. 707-A, FERC Stats. & Regs. ¶ 31,272 at P 28; *see also National Grid USA*, 133 FERC ¶ 61,241 at P 37 (2010); *Cleco Power* at P 24.

utility does not offer market-priced O&M services to third parties, and therefore would not forego any profits due to a higher market price for such services.³⁷ With that condition, the Commission found that granting the limited waiver would not harm captive customers. The facts are similar here, and the Commission should grant the requested waiver for the same reasons.

2. Waiver Request for AEPSC to Procure Fuel for the Jointly Owned Mitchell Plant

Applicants seek a waiver of the Commission's affiliate restrictions so as to permit AEPSC to procure fuel for the Mitchell Plant on behalf of the two co-owners.³⁸ This is especially appropriate because each co-owner has an undivided 50 percent interest in the Mitchell Plant, as opposed to ownership interests in discrete generating units.

The Commission has explained that its concern with joint fuel procurement is the possibility that the shared personnel may have the incentive to allocate purchases of lower-priced fuel to the market-regulated power sales affiliate while allocating purchases of higher-priced fuel supplies to the franchised public utility.³⁹ As discussed below, this scenario will not occur because, under the Mitchell Operating Agreement, for as long as AEPSC procures fuel on behalf of the co-owners, KPCo and AEP Generation Resources will incur the same monthly per unit fuel cost. Section 6.1(a) of the Mitchell Operating Agreement expressly provides that "Each Owner's average fuel cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage."

³⁷ *Cleco Power* at P 24.

³⁸ As noted above, § 5.1 of the Mitchell Operating Agreement provides each owner the right to directly purchase fuel and make transportation arrangements on its own behalf.

³⁹ See *Market-Based Rates for Wholesale Sales of Electric Energy, Capacity and Ancillary Services by Public Utilities*, 131 FERC ¶ 61,021 at P 42 (2010).

The Mitchell Plant currently operates with two coal piles (high sulfur and low sulfur) to supply the two generating units at the plant. While AEPSC procures fuel for the Mitchell Plant, the on-hand inventory in each coal pile will have one per-unit cost that will be calculated by taking an average of the costs of the various prior loads of coal deliveries that make up the total coal inventory in each pile. On a monthly basis, additional loads of coal will be delivered to Mitchell Plant in order to maintain the inventory at a certain level adequate to meet the needs of the Mitchell Plant. The monthly per unit cost of coal at the Mitchell Plant is calculated by averaging the cost of the on-hand inventory and the costs of the monthly deliveries.⁴⁰ A similar calculation will apply to the pricing of fuel oil. While AEPSC procures fuel for the Mitchell Plant, KPCo and AEP Generation Resources will incur the same per unit fuel cost, which protects captive customers against the possibility of cheaper fuel being diverted to AEP Generation Resources at the expense of KPCo's captive customers. Allowing AEPSC to perform the fuel procurement function for the jointly-owned Mitchell Plant should benefit KPCo's captive customers by reducing costs, as joint procurement enhances both KPCo's and AEP Generation Resources' leverage in contract negotiations with respect to fuel for the Mitchell Plant because the amount of generating capacity that needs fuel is doubled.

The employees who will be engaged in joint fuel procurement for the Mitchell Plant on behalf of KPCo and AEP Generation Resources will be AEPSC employees who will not be involved in or have responsibility for marketing the output of the Mitchell Plant. The AEPSC

⁴⁰ AEP notes that because the co-owners undoubtedly will consume different quantities of coal each month based upon their energy production, their annualized average per unit cost of coal burned (as shown on FERC Form 1, for example) necessarily will differ. This is because the annual per unit cost is a weighted average that reflects the monthly per unit cost (which will not vary between the co-owners) and the total quantity of coal consumed each month (which undoubtedly will vary).

personnel responsible for these functions will undergo training on the affiliate restrictions, including the no-conduit rule.

If the Commission grants the waiver request and allows AEPSC to perform the fuel procurement function for both KPCo and AEP Generation Resources, captive customers will not be harmed, because KPCo and AEP Generation Resources will incur the same monthly per unit coal cost. As such, there is no potential for affiliate abuse resulting in harm to captive customers. Moreover, granting the waiver request is fully consistent with the Commission's granting of similar waiver requests in a number of recent cases. AEPSC seeks the same waiver that the Commission has granted to a number of other public utilities to allow the sharing of fuel procurement between franchised public utilities with captive customers and their market-regulated power sales affiliates under similar circumstances. For instance, in *FirstEnergy*, the Commission granted a waiver request and allowed the FirstEnergy companies to share the fuel procurement function with respect to certain jointly-owned generating facilities. In so doing, the Commission relied on, among other things, FirstEnergy's representation that joint procurement will protect "captive customers against the possibility of cheaper fuel being diverted to one of Mon Power's market-regulated affiliates at the expense of Mon Power's captive retail customers."⁴¹ The Commission also said that "joint fuel procurement will enhance the FirstEnergy Companies' ability to obtain favorable terms when negotiating with fuel suppliers and will promote economies of scale."⁴² In several other cases, the Commission has granted waiver and allowed joint fuel procurement. *See, e.g., Entergy* at PP 26-27 (granting waivers to permit, among other things, the sharing of the fuel procurement function for certain jointly-

⁴¹ *FirstEnergy* at P 15.

⁴² *Id.*

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COMMISSION

October 15, 2013

The Honorable Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: Appalachian Power Company
Docket No. ER13-238-00_
Kentucky Power Company
Docket No. ER13-239-00_
AEP Generation Resources Inc.
Docket No. ER14- -000

Dear Secretary Bose:

American Electric Power Service Corporation ("AEPSC"), on behalf of Appalachian Power Company ("APCo"), Kentucky Power Company ("KPCo"), and AEP Generation Resources Inc. ("AEP Generation Resources") (AEPSC, APCo, KPCo, and AEP Generation Resources collectively may be referred to as "AEP"), hereby submits (i) APCo's withdrawal of its rate schedule and corresponding Tariff Record ID for the Mitchell Plant Operating Agreement among APCo, KPCo, and AEPSC ("Mitchell Agreement"), and (ii) KPCo's filing of a revised rate schedule and corresponding Tariff Record ID for the Mitchell Plant Operating Agreement among KPCo, AEP Generation Resources, and AEPSC ("Superseding Mitchell Agreement"). AEPSC respectfully requests that the Commission accept the Superseding Mitchell Agreement for filing and permit it to become effective on January 1, 2014. **As discussed herein, AEPSC respectfully requests the Commission to issue an order accepting this filing by Monday, December 16, 2013, in order to allow AEP to implement a comprehensive corporate reorganization as required under the State of Ohio's laws on December 31, 2013.**

This filing includes the following documents in addition to the relevant Tariff Records:¹

1. Attachment A - Clean Tariff Attachment for the Superseding Mitchell Operating Agreement (KPCo Rate Schedule No. 303); and
2. Attachment B - Certificate of Concurrence signed on behalf of AEP Generation Resources.

I. BACKGROUND

As described in detail in a Federal Power Act (“FPA”) Section 203² application that AEPSC submitted in Docket No. EC13-26-000 on October 31, 2012, the Public Utilities Commission of Ohio approved a comprehensive restructuring of AEP’s Ohio utility affiliate, Ohio Power Company (“Ohio Power”). Among other things, that restructuring provides for Ohio Power to separate its generation facilities from its transmission and distribution facilities. In a separate Section 203 application filed on that same date in Docket No. EC13-28-000, APCo, KPCo, and AEP Generation Resources sought authority for (i) APCo to obtain from AEP Generation Resources Ohio Power’s former interest in Unit No. 3 of the John E. Amos Plant and appurtenant interconnection facilities (“Amos Plant”) (APCo already owns an interest in Amos Unit No. 3) and an 50 percent undivided interest in the Mitchell Power Generating Facility and appurtenant interconnection facilities (“Mitchell Plant”)³, and (ii) KPCo to obtain from AEP Generation Resources the remaining 50 percent undivided interest in the Mitchell Plant. The Commission approved both of these applications on April 29, 2013.⁴

In connection with these Section 203 applications, AEPSC also submitted for filing under FPA Section 205⁵ the Mitchell Agreement, pursuant to which APCo was to operate the Mitchell Plant, and the Sporn Plant Operating Agreement among APCo, AEP Generation Resources, and AEPSC (“Sporn Agreement”), under which APCo will operate the units at the Philip Sporn Plant (“Sporn Plant”).⁶ Those filings currently are pending before the Commission in Docket Nos. ER13-238-000, ER13-239-000, and ER13-240-000.

¹ The same filing is being submitted in two Tariff IDs, so the relevant Tariff Records will vary with each of the two filings. Each of these filings will include Attachments A and B for convenience of the reviewer.

² 18 U.S.C. § 824b (2006).

³ The Mitchell Plant consists of two 800,000 kW coal-fired units located in Moundsville, West Virginia.

⁴ See *Ohio Power Co.*, 143 FERC ¶ 61,075 (2013), *reh'g pending*; *Appalachian Power Co.*, 143 FERC ¶ 61,074 (2013).

⁵ 18 U.S.C. § 824d (2006).

⁶ Those units are four 150,000 kW coal-fired units (Sporn Unit Nos. 1-4) and one 450,000 kW coal-fired unit (Sporn Unit No. 5). APCo owns Sporn Unit Nos. 1 and 3, and AEP Generation Resources will own Sporn Unit Nos. 2, 4, and 5, although Sporn Unit No. 5 was retired on February 13, 2012.

On July 31, 2013, the State Corporation Commission of Virginia (“Virginia Commission”) issued an order which, among other things, approved APCo’s acquisition of a two-thirds undivided interest in Unit No. 3 at the Amos station; however, the Virginia Commission denied APCo’s request to acquire a 50 percent undivided interest in the Mitchell Plant.⁷ On October 7, 2013, the Kentucky Public Service Commission issued an order authorizing KPCo’s acquisition of an undivided 50 percent interest in the Mitchell Plant.⁸

As a result of the Virginia Commission’s ruling, which had the effect of modifying AEP’s proposed corporate reorganization, AEP Generation Resources will retain the 50 percent undivided interest in the Mitchell Plant. Thus, upon consummation of the transactions, APCo will own and operate the entirety of the Amos Plant, and APCo will continue to own Sporn Unit Nos. 1 and 3 and serve as the operator of the Sporn Plant pursuant to the terms of the Sporn Agreement as filed with the Commission on October 31, 2012. However, KPCo and AEP Generation Resources (rather than APCo) each will own a 50 percent undivided interest in the Mitchell Plant, and KPCo will operate the Mitchell Plant under the terms and conditions of the Superseding Mitchell Agreement. Accordingly, AEPSC hereby requests authority to withdraw the Mitchell Agreement originally filed on October 31, 2012, and replace it with the Superseding Mitchell Agreement, which is discussed in more detail below.⁹

II. DISCUSSION

The Superseding Mitchell Agreement is similar to the Sporn Agreement and, in many respects, the Mitchell Agreement as originally filed, with most of the changes simply reflecting the change from APCo to KPCo as the plant operator. For example, Article One of the Superseding Mitchell Agreement sets out KPCo’s and AEPSC’s functions,¹⁰ including their obligations to operate and maintain the plant in accordance with good utility practices, to maintain the necessary books, records, and joint bank accounts for transactions involving the Mitchell Plant, and to prepare statements detailing for AEP Generation Resources the monthly costs associated with operating and maintaining the plant. Article Two provides for the apportionment of capacity and energy between KPCo and AEP Generation Resources. Section

⁷ Virginia State Corporation Commission, Case No. PUE-2012-00141, *Order* (July 31, 2013); available at: www.scc.virginia.gov/case/e-notice/ne130057.pdf As of the date of this filing, the Public Service Commission of West Virginia has not yet acted on APCo’s request for authorization to acquire interests in the Amos Plant and the Mitchell Plant, but its ruling will not change the fact that, as a result of the Virginia Commission’s ruling, APCo will not be acquiring an interest in the Mitchell Plant on December 31, 2013.

⁸ Kentucky Public Service Commission, Case No. 2012-00578 (October 7, 2013); available at: http://psc.ky.gov/order_vault/Orders_2013/201200578_10072013.pdf

⁹ AEPSC, on behalf of KPCo and AEP Generation Resources, is contemporaneously submitting a filing seeking waivers of certain affiliate restrictions in connection with the proposed operations of the Mitchell Plant provided for in the Superseding Mitchell Agreement.

¹⁰ Under the Superseding Mitchell Agreement, AEPSC provide will provide services that support the safe and efficient operation and maintenance of the Mitchell Plant.

2.3 provides that in each hour, the parties will share the units' minimum load responsibilities in proportion to their ownership interests, and that each owner will independently dispatch its share of the capacity between minimum and full load.¹¹

Article Three details each owner's responsibilities and obligations for the costs of installing additional or replacement facilities at the plant, and specifies generally that the cost of facilities for jointly-owned property will be allocated in accordance with the ratio of each owner's ownership interest. Article Four discusses the owners' working capital requirements. Article Five provides for KPCo and AEPSC to establish and maintain sufficient coal stock piles to provide adequate fuel reserves for normal operations, and for the owners to make monthly investments in the common coal stock piles. KPCo's and AEP Generation Resources' respective shares of the investment in the common coal stock piles will be proportionate to their ownership shares in the Mitchell Plant. This article further provides the right to each owner to directly purchase fuel supplies and arrange transportation, subject to approval of procedures by the Operating Committee (discussed below as to Article Seven).

Article Six apportions the station costs, including fuel expenses (unless an owner exercises its right to directly purchase fuel on its own behalf), between KPCo and AEP Generation Resources. For example, KPCo's and AEP Generation Resources' respective shares of the monthly costs of the fuel consumed at the Mitchell Plant will be proportionate to their dispatch in each month. It is important to note that as long as KPCo is responsible for procuring fuel for the Mitchell Plant, the monthly per unit cost of coal and fuel oil will be the same for KPCo and AEP Generation Resources; *i.e.*, each party will incur exactly the same monthly per unit cost of fuel thereby ensuring that lower-cost fuel cannot be allocated to AEP Generation Resources. Article Six also apportions the monthly operating and maintenance costs in accordance with the ownership interests (which will be 50/50).

Article Seven provides for the Operating Committee, consisting of representatives of each owner and AEPSC, as agent. Decisions by the Operating Committee must be agreed to by KPCo and AEP Generation Resources. The Operating Committee's responsibilities include: (a) review and approval of annual budgets and operating plans, including determination of the emission allowances required to be acquired by the owners; (b) establishment of dispatch and unit commitment procedures, (c) establishment of communication and coordination protocols with respect to Mitchell Plant capacity availability, fuel-firing options, scheduling of the generating capacity, including scheduling of outages or maintenance, repairs, equipment replacements, inspections, and other foreseeable cause of outages, as well as the return to availability following an unplanned outage, (d) decisions on capital expenditures, (e) determinations on changes in unit capability and retirement(s), (f) establishment of billing

¹¹ Section 7.6 provides for an alternate set of procedures under which one party may call on the capacity that the other party has not committed to schedule. That section expressly provides, however, that the parties will not implement this arrangement until the Operating Committee has agreed upon specific procedures and the parties have obtained the regulatory approvals or waivers necessary for this dispatch arrangement. KPCo and AEP Generating Resources will not implement the dispatch provisions in Section 7.6 without first obtaining the Commission's authorization.

procedures, (g) approval of fuel specifications, material contracts for fuel, transportation, and consumables, and establishment of procurement rights and procedures if an owner elects to purchase fuel for its own interest, (h) review and approval of changes to the Mitchell Plant operating procedures, (i) plans to comply with environmental laws and other regulations, ordinances, and permits, and (j) other duties as assigned by agreement of the co-owners of the Mitchell Plant. Article Seven also includes provisions addressing emission allowances, as well as capital repairs and improvements.

As with the original Mitchell Agreement, the remaining articles of the Superseding Mitchell Agreement include standard contract provisions addressing, among other things, compliance with regulatory requirements, limitations on liability, assignment, and dispute resolution, and essentially are unchanged from the original Mitchell Agreement.

III. GENERAL FILING INFORMATION

In compliance with the requirements of 18 C.F.R. § 35.13, AEPSC states as follows:

A. General Information – 18 C.F.R. § 35.13(b)

The documents provided with this filing include this Transmittal Letter and the materials listed above. The persons upon whom this filing has been served are set out below in Section IV. A description of and the reasons for the rate changes proposed are discussed in this Transmittal Letter. AEPSC further states that there are no costs in the agreements that have been alleged or judged in any administrative or judicial proceeding to be illegal, duplicative, or unnecessary costs that are demonstrably the product of discriminatory employment practices.

B. Cost of Service Information

AEPSC requests waiver of those provisions in Section 35.13 that would require AEPSC to submit cost-of-service data. The Superseding Mitchell Agreement provides for the plant owners to incur the actual operating and maintenance costs, fuel and fuel handling expenses, and capital costs incurred for the installation of new or replacement facilities at the plants. In a companion filing being submitted today, AEP is seeking a limited waiver of certain affiliate restrictions adopted in Order No. 707¹² to enable KPCo to charge AEP Generation Resources its share of KPCo's actual cost of operating and maintaining the Mitchell Plant, and to jointly procure fuel for the plant (unless either owner exercises its right to directly purchase fuel and arrange transportation).

C. Effective Date

AEPSC requests waiver of Section 35.3 to permit the Superseding Mitchell Agreement to become effective upon the closing of the Ohio restructuring transaction and the asset transfer transaction involving the Mitchell Plant. The parties anticipate that these closings will occur on or about December 31, 2013. The Tariff Records are thus being submitted with a January 1, 2014 proposed effective date.

¹² *Cross Subsidization Restrictions on Affiliate Transactions*, Order No. 707, FERC Stats. & Regs. ¶ 31,264, *order on reh'g*, Order No. 707-A, FERC Stats. & Regs. ¶ 31,272 (2008).

The transfer of the Mitchell Plant from Ohio Power to KPCo and AEP Generation Resources is part of a comprehensive internal corporate reorganization that is being implemented in accordance with Ohio's restructuring of the electric industry. The Mitchell transaction and several other transactions relating to the Ohio restructuring are scheduled to close on December 31, 2013. As AEP has explained in prior filings, AEP seeks to secure all required approvals sufficiently in advance of the December 31, 2013 closing to ensure that the transaction can be closed as contemplated. AEP respectfully requests, therefore, that the Commission issue an order in this proceeding on or before Monday, December 16, 2013, to enable an orderly closing on December 31, 2013.

IV. CORRESPONDENCE AND SERVICE

AEPSC requests that any correspondence or communications with respect to this filing be sent to the following:

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A copy of this filing will be served on the Kentucky Public Service Commission, the Public Service Commission of West Virginia, and the Virginia State Corporation Commission, as well as parties to the above-referenced dockets, and the filing will be posted on AEP's website at: <http://www.aep.com/investors/currentRegulatoryactivity/regulatory/ferc.aspx>

V. CONCLUSION

For the foregoing reasons, AEPSC requests that it be permitted to withdraw APCo's submission of the proposed rate schedule and accompany Tariff Records relating to the Mitchell Agreement, and in its place AEPSC submits on behalf of KPCo and AEP Generating Resources the Superseding Mitchell Agreement. AEPSC respectfully requests that the Commission accept for filing, without condition or modification, the Superseding Mitchell Agreement. If you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/

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Attachments

ATTACHMENT A

**Clean Tariff Attachment
For The Mitchell Operating Agreement
KPCo Rate Schedule No. 303**

RATE SCHEDULE NO. 303

MITCHELL PLANT OPERATING AGREEMENT

KENTUCKY POWER COMPANY

AEP GENERATION RESOURCES INC.

And

AMERICAN ELECTRIC POWER SERVICE CORPORATION, AS AGENT

Tariff Submitter: Kentucky Power Company
FERC Program Name: FERC FPA Electric Tariff
Tariff Title: KPCo Rate Schedules and Service Agreement Tariffs
Tariff Proposed Effective Date: 01/01/2014
Tariff Record Title: Mitchell Plant Operating Agreement
Option Code: A
Record Content Description: Rate Schedule No. 303

THIS MITCHELL PLANT OPERATING AGREEMENT (“Agreement”), dated January 1, 2014 is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia (“KPCo”) and AEP Generation Resources Inc., a Delaware corporation qualified as a foreign corporation in West Virginia (“AEPGR”) (such two parties hereinafter sometimes referred to as the “Owners”); and American Electric Power Service Corporation (“Agent”), a New York corporation qualified as a foreign corporation in West Virginia. KPCo, AEPGR, and Agent may hereinafter be referred to as a “Party” or collectively as the “Parties”.

WITNESSETH:

WHEREAS, KPCo and AEPGR have acquired an undivided ownership interest in the Mitchell Power Generation Facility consisting of two 800MW generating units and associated plant, equipment and real estate, located in Moundsville, West Virginia, (the “Mitchell Plant”); and

WHEREAS, KPCo now has an undivided 50% ownership interest in the Mitchell Plant and AEPGR now has an undivided 50% ownership interest in the Mitchell Plant; and

WHEREAS, the Owners desire that KPCo shall operate and maintain the Mitchell Plant in accordance with the provisions set forth herein; and

WHEREAS, the Owners are subsidiaries of American Electric Power Company, Inc., (“AEP”) the parent company in an integrated public utility holding company system, and use the services of Agent, (an affiliated company engaged solely in the business of furnishing essential services to the Owners and to other affiliated companies), as outlined in the service agreements between Agent and KPCo and between Agent and AEPGR.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories agree as follows:

ARTICLE ONE

FUNCTIONS OF KPCO AND AGENT

- 1.1 KPCo shall operate and maintain the Mitchell Plant in accordance with good utility practice consistent with procedures employed by KPCo at its other generating stations, and in conformity with the terms and conditions of this Agreement.
- 1.2 KPCo shall keep all necessary books of record, books of account and memoranda of all transactions involving the Mitchell Plant, and shall make computations and allocations on behalf of the Owners, as required under this Agreement. The books of record, books of account and memoranda shall be kept in such manner as to conform, where so required, to the Uniform System of Accounts as prescribed by the Federal Energy Regulatory Commission ("FERC") for Public Utilities and Licensees ("Uniform System of Accounts"), and to the rules and regulations of other regulatory bodies having jurisdiction as they may from time to time be in effect.
- 1.3 The Owners shall establish such joint bank accounts as may from time to time be required or appropriate.
- 1.4 As soon as practicable after the end of the month, KPCo shall furnish to AEPGR a statement setting forth the dollar amounts associated with the operation and maintenance of the Mitchell Plant as allocated hereunder to KPCo and AEPGR for such month. The Owners shall, on a timely basis, deposit sufficient dollar amounts in the appropriate bank accounts to cover their respective allocations of such costs.

1.5 KPCo shall be responsible for the day to day operation and maintenance of the Mitchell Plant. KPCo shall obtain such materials, labor and other services as it considers necessary in connection with the performance of the functions to be performed by it hereunder from such sources or through such persons as it may designate.

1.6 Agent, as directed by the Operating Committee and consistent with Agent's service agreements with KPCo and AEPGR, shall provide services necessary for the safe and efficient operation and maintenance of the Mitchell Plant.

ARTICLE TWO

APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The Total Net Capability of the Mitchell Plant at the Mitchell Unit 1 and Unit 2 low-voltage busses, after taking into account auxiliary load demand, is 1,560,000 kilowatts. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The Total Net Generation of the Mitchell Plant during a given period, as determined by the requirements of KPCo and AEPGR, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for the Mitchell Unit 1 and Unit 2 during such period.

2.3 Except as set forth in Section 7.6 (including Section 7.6 Subsections), in any hour, KPCo and AEPGR shall share the minimum load responsibility of Mitchell Unit 1 and Unit 2 in respective amounts proportionate to their ownership interests in the

Mitchell Plant at such time. Each Owner shall independently dispatch its share of the generating capacity between minimum and full load.

- 2.4 In any hour during which the Mitchell Units are out of service, the energy used by the out-of-service Units' auxiliaries during such hour shall be provided by KPCo and AEPGR in respective amounts proportionate to their ownership interests in the Mitchell Plant at such time.

ARTICLE THREE

REPLACEMENTS, ADDITIONS, AND RETIREMENTS

- 3.1 KPCo shall from time to time make or cause to be made any additions to, replacements of, and retirements of capitalizable facilities associated with the Mitchell Plant in accordance with the approved annual budget.
- 3.2 The dollar amounts associated with any additions to, replacements of, or retirements of capitalizable facilities associated with the Mitchell Plant shall be allocated to KPCo and AEPGR in respective amounts proportionate to their ownership interests in the Mitchell Plant at the time such additions, replacements, or retirements are made.

ARTICLE FOUR

WORKING CAPITAL REQUIREMENTS

- 4.1 KPCo and AEPGR shall periodically mutually determine the amount of funds required for use as working capital in meeting payrolls and other expenses incurred in the operation and maintenance of the Mitchell Plant, and in buying materials and supplies (exclusive of fuel) for the Mitchell Plant.

4.2 KPCo and AEPGR shall from time to time provide their share of working capital requirements in respective amounts proportionate to their ownership interests at such time in the Mitchell Plant.

ARTICLE FIVE

INVESTMENT IN FUEL

5.1 KPCo and Agent shall establish and maintain reserves of coal in stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply, provided each Owner, subject to the approval of the Operating Committee and subject to no adverse impact on the operation of the Mitchell Plant, will have the right, but not the obligation, to directly purchase coal, transportation and consumables for its ownership interest. For the purposes of this Agreement "consumables" shall be as defined in FERC account 502.

5.2 Except as provided in Section 5.1 for an Owner to elect to procure coal for its own interest, the Owners shall make such monthly investments in the common coal stock piles associated with the Mitchell Plant as are necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from the common coal stock piles by Mitchell Unit 1 and Unit 2 during such month.

5.3 At any time, KPCo's and AEPGR's respective shares of the investment in the common coal stock piles shall be proportionate to their ownership interests in the Mitchell Plant, unless an Owner elects to procure its own coal as provided in Section 5.1, in which case inventories will be separately maintained for accounting purposes.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX

APPORTIONMENT OF STATION COSTS

6.1 Except in the case where an Owner has elected to purchase coal for its own interest as provided for in Section 5.1 (in which case the allocation to the Owners of fuel expense shall be in accordance with procedures and processes approved by the Operating Committee), the allocation to the Owners of fuel expense associated with Mitchell Unit 1 and Unit 2 shall be determined by KPCo and Agent as follows:

- (a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.
- (b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles

during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in stock pile and charged to Mitchell Plant fuel consumed.

(c) In each calendar month, KPCo's and AEPGR's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1 (b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For purposes of this Agreement, KPCo's Assigned Capacity in the Mitchell Plant shall be equal to 50% of the Total Net Capability, and AEPGR's Assigned Capacity shall be equal to 50% of the Total Net Capability.

6.3 For each calendar month, KPCo and Agent will, to the extent practicable, determine all Mitchell Plant operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 For each calendar month, KPCo and Agent will, to the extent practicable, determine all Mitchell Plant maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.5 In each calendar month, KPCo's and AEPGR's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with Sections 6.3 and 6.4, shall be proportionate to their respective ownership interests.

- 6.6 Each Owner shall bear the cost of all taxes attributable to its respective ownership interest in the Mitchell Plant.

ARTICLE SEVEN

OPERATING COMMITTEE AND OPERATIONS

- 7.1 By written notice to each other, the Owners and Agent each shall name one representative ("Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement. Any Party may change its Operating Representative or alternate at any time by written notice to the other Parties. The Operating Representatives for the respective Parties, or their alternates, shall comprise the Operating Committee. All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. The Operating Representative of Agent, or of any third party that provides services in replacement of Agent, shall be free to express the views of Agent or such third party on any matter, but shall not have a vote on the Operating Committee. Except as otherwise provided in Sections 11.1, 11.2 and 11.3 with respect to a dispute referred to the Operating Committee by an Owner, the failure of the Owners' respective Operating Representatives to unanimously agree with respect to a matter pending before the Operating Committee shall not be considered to be a dispute that would be subject to resolution under Article Eleven.
- 7.2 The Operating Committee shall have the following responsibilities:
- a) Review and approval of an annual budget and annual operating plan, including determination of the emission allowances required to be acquired by KPCo and AEPGR. If the Operating Committee fails to

approve an annual budget, the approved annual budget from the previous year will continue to apply until such time as the new annual budget is approved.

- b) Establishment and review of procedures and systems for dispatch, notification of dispatch, and unit commitment under this Agreement, including any commitment of Called Capacity pursuant to Section 7.6.2.
- c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages, as well as the return to availability following an unplanned outage.
- d) Decisions on capital expenditures, including unit upgrades and re-powering.
- e) Determinations as to changes in the unit capability and decisions on unit retirement.
- f) Establishment and modification of billing procedures under this Agreement.
- g) Approval of material contracts for fuel, transportation or consumable supply. Establishment of specification of fuels, oversight of fuel inspection and certification procedures, management of fuel inventories, and allocation of rights under fuel supply, transportation

and consumable contracts. Establishment of an Owner's procurement rights and procedures if the Owner elects to purchase coal, transportation or consumables for its own interest.

- h) Establishment of, termination of, and approval of any change or amendment to the operating arrangements between KPCo and Agent or any replacement third party with respect to the Mitchell Plant generating units; provided, however, that Agent or any replacement third party shall participate in discussions pursuant to this subsection 7.2.h only if and to the extent requested to do so by both Owners.
- i) Review and approval of plans and procedures designed to ensure compliance with any environmental law, regulation, ordinance or permit, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one unit for compliance.
- j) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least annually, and at such other times as any Party may reasonably request.

7.4 The Parties shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 The Owners will each make an initial unit commitment one business day ahead of real-time dispatch.

- 7.6 Application of this Section 7.6 (including subsections) is subject to (i) the receipt of any necessary regulatory approvals or waivers expressly granted for this Section 7.6; and (ii) the Operating Committee establishing and approving procedures and systems for dispatch. As used in this Section and subsections of this Section, the terms “Party” or “Parties” refers only to KPCo and AEPGR, or both of them, as the case may be.
- 7.6.1 If Mitchell Unit 1 or Unit 2 is designated to be committed by both Parties, such unit will be brought on line or kept on line. If neither Party designates Mitchell Unit 1 or Unit 2 to be committed, such unit will remain off line or to be taken offline.
- 7.6.2 When a Mitchell Unit is designated to be committed by one Party, but designated not to be committed by the other Party, the unit will be brought on line or kept on line if the Party designating the unit for commitment undertakes to pay any applicable start-up costs for the unit, as well as any applicable minimum running costs for the unit thereafter, in which event the unit shall be brought on line or kept on line, as the case may be. The Party so designating the unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the unit. Available Capacity means that portion of the Owners’ aggregate Assigned Capacity that is currently capable of being dispatched. The Party exercising this right shall be referred to as the “Calling Party,” and the capacity called by that Party in excess of its Assigned Capacity Percentage of the Available Capacity of that unit shall be referred to as its “Called Capacity.” The other Party shall be referred to as the “Non-Calling Party”. The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for the Unit. For purposes

of this Agreement, KPCo's Assigned Capacity Percentage shall be 50%, and AEPGR's Assigned Capacity Percentage shall be 50%.

7.6.3 The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share by giving the Calling Party notice equal to the normal cold start-up time for the unit. At the end of the notice period, the Non-Calling Party shall have the right to schedule and dispatch the recalled capacity. At that point, the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity from the unit.

7.6.4 If any capacity remains available but is not dispatched from a Party's Available Capacity committed as a result of the initial unit commitment, the other Party may only schedule and dispatch such capacity pursuant to agreement with the non-dispatching Party.

7.7 KPCo and AEPGR shall be individually responsible for any fees charged by FERC on the basis of the sales or transmission by each of capacity or energy at wholesale in interstate commerce.

7.8 Emission Allowances. To the extent such assignment has not previously occurred, on or before the effective date of this Agreement, KPCo and Agent will assign to AEPGR a pro rata share of the remaining Emission Allowances for each vintage year of Emission Allowances, issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia,

including but not limited to the Clean Air Interstate Rule 40 CFR Parts 96 and 97, and any amendments thereto ("Emission Allowances"), that it has received from the Administrator of USEPA or the State of West Virginia with respect to the Mitchell Plant in the past and has not expended as of the date of assignment. In each case, the number of such Emission Allowances to be assigned by KPCo to AEPGR will be determined by multiplying AEPGR's Assigned Capacity Percentage, as specified in Section 7.6.2, by the total of such Emission Allowances that KPCo or Agent has received or purchased for the Mitchell Plant and has not expended as of the date of assignment rounded to the nearest whole number. Emission Allowances received by KPCo with respect to the Mitchell Plant will be shared by the Owners in accordance with the Assigned Capacity Percentage of each of them. To the extent that additional Emission Allowances are required for operation of the Mitchell Plant, KPCo and AEPGR will each be responsible for acquiring sufficient Emission Allowances to satisfy the Emission Allowances required because of its dispatch of energy from the Mitchell Plant, and the Emission Allowances required to satisfy the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree between USEPA and Ohio Power Company entered on December 10, 2007, in Civil Action No. C2-99-1182 and consolidated cases by the U.S. District Court in the Southern District of Ohio. On or before January 10 of each year, Agent shall determine and notify KPCo and AEPGR of the number of additional annual Emission Allowances consumed by each of them through December 31 of the previous year, and KPCo and AEPGR shall each transfer into the Mitchell Plant U.S. EPA Allowance Transfer System account that number of

Emission Allowances with a small compliance margin by January 31 of that year.

For seasonal Emission Allowance programs, Agent shall determine and notify KPCo and AEPGR of the number of additional seasonal Emission Allowances consumed by each of them during the applicable compliance period by the 10th day of the first month following the end of the compliance period, and KPCo and AEPGR shall each transfer into the appropriate Mitchell Plant U.S. EPA Allowance Transfer System Account that number of Emission Allowances with a small compliance margin by the last day of the first month following the end of the compliance period.

In the event that KPCo or AEPGR fails to surrender the required number of Emission Allowances by January 31 or the last day of the first month following any seasonal compliance period, Agent shall purchase the required number of Emission Allowances, and KPCo or AEPGR, as the case may be, shall reimburse Agent for such purchases, with interest at the Federal Funds Rate (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for the Emission Allowances required by the use of the Mitchell Plant by KPCo and AEPGR and to correct any imbalance between Emission Allowances supplied and Emission Allowances used through the end of the preceding year by settlement or payment.

- 7.9 Capital repairs and improvements to the Mitchell Plant will be determined by the Operating Committee pursuant to the annual budgeting process set forth in Section

7.10. Expenditures that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be assigned exclusively to that Owner.

7.10 At least 90 days before the start of each operating year, KPCo and Agent shall submit to the Operating Committee a proposed annual budget with respect to the Mitchell Plant, a proposed annual operating plan, and an estimate and schedule of costs to be incurred for major maintenance or replacement items during the next six-year period. The annual budget shall be presented on a month-by-month basis for each month during the next operating year, and shall include an operating budget, a capital budget, an estimate of the cost of any major repairs that are anticipated will occur during such operating year with respect to the Mitchell Plant, and an itemized estimate of all projected non-fuel variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual budget and final annual operating plan. Once approved, the annual budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine.

ARTICLE EIGHT

EFFECTIVE DATE AND TERM

- 8.1 Subject to FERC approval or acceptance for filing, the effective date of this Agreement shall be January 1, 2014.
- 8.2 Subject to FERC approval or acceptance, if necessary, this Agreement shall remain in force until such time as (i) KPCo or AEPGR has divested itself of all or any

portion of its ownership interest in the Mitchell Plant, other than assignment or other transfer of such ownership interests to another AEP affiliate; or (ii) either KPCo or AEPGR is no longer a direct or indirect wholly owned subsidiary of AEP; or (iii) KPCo and AEPGR may mutually agree to terminate this Agreement.

ARTICLE NINE

GENERAL

- 9.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and assigns, but this Agreement may not be assigned by any signatory without the written consent of the others, which consent shall not be unreasonably withheld.
- 9.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.
- 9.3 The interpretation and performance of this Agreement shall be in accordance with the laws of the State of Ohio, excluding conflict of laws principles that would require the application of the laws of a different jurisdiction.
- 9.4 This Agreement supercedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories or their representatives with respect to operation of the Mitchell Plant, and constitutes the entire agreement of the signatories with respect to the operation of the Plant. Notwithstanding the foregoing, this Agreement does not supercede any previous agreements among any of the signatories allocating or transferring rights to capacity and associated energy, or ownership, of the Mitchell Plant.

9.5 Each party shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, facsimile, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY

Attn: _____

Phone: _____

Facsimile: _____

Email: _____

AEP GENERATION RESOURCES INC.

Attn: _____

Phone: _____

Facsimile: _____

Email: _____

AMERICAN ELECTRIC POWER SERVICE
CORPORATION

Attn: _____

Phone: _____

Facsimile: _____

Email: _____

All notices shall be effective upon receipt, or upon such later date following receipt as set forth in the notice. Any Party may, by written notice to the other Parties, change the representative or the address to which such notices are to be sent.

ARTICLE TEN

LIMITATION OF LIABILITY

- 10.1 Notwithstanding anything in this Agreement to the contrary, neither of the Owners or Agent shall be liable under this Agreement for special, consequential, indirect, punitive or exemplary damages, or for lost profits or business interruption damages, whether arising by statute, in tort or contract or otherwise.

ARTICLE ELEVEN

DISPUTE RESOLUTION

- 11.1 If either Owner believes that a dispute has arisen as to the meaning or application of this Agreement, it shall present that matter to the Operating Committee in writing, and shall provide a copy of that writing to the other Owner.
- 11.2 If the Operating Committee is unable to reach agreement on a dispute submitted to the Operating Committee pursuant to Section 11.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to the chief operating officers of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner involved in the dispute may invoke the arbitration provisions set forth in Section 11.3 at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

11.3 If the Owners are unable to resolve a dispute through the Operating Committee within thirty (30) days after the dispute is presented to the Operating Committee pursuant to Section 11.1, or through reference of the matter to the chief operating officers of the Owners pursuant to Section 11.2, either Owner may commence arbitration proceedings by providing written notice to the other Owner, detailing the nature of the dispute, designating the issue(s) to be arbitrated, identifying the provisions of this Agreement under which the dispute arose, and setting forth such Owner's proposed resolution of such dispute.

11.3.1 Within ten (10) days of the date of the notice of arbitration, a representative of each Owner shall meet for the purpose of selecting an arbitrator. If the Owners' representatives are unable to agree on an arbitrator within fifteen (15) days of the date of the notice of arbitration, then an arbitrator shall be selected in accordance with the procedures of the American Arbitration Association ("AAA"). Whether the arbitrator is selected by the Owners' representatives or in accordance with the procedures of the AAA, the arbitrator shall have the qualifications and experience in the occupation, profession, or discipline relevant to the subject matter of the dispute.

11.3.2 Any arbitration proceeding shall be subject to the Federal Arbitration Act, 9 U.S.C. §§ 1 *et seq.* (1994), as it may be amended, or any successor enactment thereto, and shall be conducted in accordance with the commercial arbitration rules of the AAA in effect on the date of the notice to the extent not inconsistent with the provisions of this Article.

11.3.3 The arbitrator shall be bound by the provisions of this Agreement where applicable, and shall have no authority to modify any terms and conditions of this Agreement in

any manner. The arbitrator shall render a decision resolving the dispute in an equitable manner, and may determine that monetary damages are due to an Owner or may issue a directive that an Owner take certain actions or refrain from taking certain actions, but shall not be authorized to order any other form of relief; provided, however, that nothing in this Article shall preclude the arbitrator from rendering a decision that adopts the resolution of the dispute proposed by an Owner. Unless otherwise agreed to by the Owners, the arbitrator shall render a decision within one hundred twenty (120) days of appointment, and shall notify the Owners in writing of such decision and the reasons supporting such decision. The decision of the arbitrator shall be final and binding upon the Owners, and any award may be enforced in any court of competent jurisdiction.

11.3.4 The fees and expenses of the arbitrator shall be shared equally by the Owners, unless the arbitrator specifies a different allocation. All other expenses and costs of the arbitration proceeding shall be the responsibility of the Owner incurring such expenses and costs.

11.3.5 Unless otherwise agreed by the Owners, any arbitration proceedings shall be conducted in Columbus, Ohio.

11.3.6 Except as provided in this Article, the existence, contents, or results of any arbitration proceeding under this Article may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any agencies having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants

as required in connection with an arbitration proceeding under pledge of confidentiality.

11.3.7 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through arbitration, as provided in this Article. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. § 791a *et seq.*, as amended from time to time, and any arbitration proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of the FERC proceedings. The arbitrator shall have no authority to modify, and shall be conclusively bound by, any decisions, findings of fact, or orders of FERC; provided, however, that to the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed to arbitration under this Article to secure such a remedy, subject to any FERC decisions, findings, or orders.

11.4 The procedures set forth in this Article shall be the exclusive means for resolving disputes arising under this Agreement and shall survive this Agreement to the extent necessary to resolve any disputes pertaining to this Agreement. Except as provided in Sections 11.3 and 11.3.7, neither Owner shall have the right to bring any dispute

for resolution before a court, agency, or other entity having jurisdiction over this Agreement, unless both Owners agree in writing to such procedure.

11.5 To the extent that a dispute involves the actions, inactions or responsibilities of Agent under this Agreement, the provisions of this Article shall be applicable to such dispute. For such purposes, Agent shall be treated as an Owner in applying the provisions of this Article.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

BY: _____

Title: _____

AEP GENERATION RESOURCES INC.

BY: _____

Title: _____

AMERICAN ELECTRIC POWER SERVICE CORPORATION

BY: _____

Title: _____

ATTACHMENT B

**Certificate of Concurrence
Executed On Behalf Of
AEP Generation Resources Inc.**

CERTIFICATE OF CONCURRENCE

This is to certify that AEP Generation Resources Inc. (AEP Generation Resources), a Delaware corporation, assents to and concurs in the FERC FPA Electric Tariff described below, which Kentucky Power Company (KPCo), the designated filing company, has filed in its "KPCo Rate Schedules and Service Agreements Tariffs" database.

Name of Tariff Adopted by Reference: Mitchell Plant Operating Agreement

KPCo Tariff Record Adopted by Reference: Rate Schedule No. 303, Mitchell Plant Operating Agreement

Description of Tariff: Rate Schedule under which KPCo, AEP Generation Resources and American Electric Power Service Corporation (in an agency role) will operate and maintain the Mitchell Plant.

By: /John C. Crespo/

John C. Crespo,

Deputy General Counsel – Regulatory Services

Dated: October 15, 2013