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July 28, 2014

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**HAND DELIVERED**

Jeff R. Derouen  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

**RE: Case No. 2013-00144 (Post-Case Referenced Correspondence File)**

Dear Mr. Derouen:

Enclosed please find the fifth amendment to the Renewable Energy Purchase Agreement between Kentucky Power Company and ecoPower Generation-Hazard LLC.

It is being provided for informational purposes, and Kentucky Power requests that it be placed in the post-case referenced correspondence file.

Very truly yours,

  
Mark R. Overstreet

MRO

cc: Michael L. Kurtz  
Jennifer B. Hans

## **FIFTH AMENDMENT**

This **FIFTH AMENDMENT** ("Amendment") is made as of July 25, 2014 by and between ecoPower Generation-Hazard LLC, a Kentucky limited liability company ("Seller"), and Kentucky Power Company, a Kentucky corporation ("Purchaser"). Each of Seller and Purchaser are sometimes referred to herein as a "Party" and collectively as the "Parties".

### **RECITALS**

- A. WHEREAS, Seller and Purchaser are Parties to that certain Renewable Energy Purchase Agreement dated as of March 15, 2013, as amended by that First Amendment dated June 28, 2013; that Second Amendment dated December 6, 2013; that Third Amendment dated February 26, 2014; and by that Fourth Amendment dated April 25, 2014 (collectively, the "REPA");
  
- B. WHEREAS, the Parties mutually desire to modify certain terms and conditions of the REPA, as more fully set forth herein, as Purchaser has yet to make any determinations under Section 6.1, because, amongst other items, under the terms of the REPA, there are no orders that would qualify as Commission Approval Orders;
  
- C. WHEREAS, the Parties have been engaged in negotiations over a mutually acceptable amendment to the REPA to address financial risks posed by one of two different Commission orders that are currently being appealed, so the Parties have negotiated to extend Purchaser's conditions precedent dates in Section 6.1(A), as this will provide the Parties with additional time to negotiate a potential amendment to the REPA, but neither Party is required to agree upon terms of any such amendment that it does not find acceptable, and the Parties acknowledge and agree that with respect to any such mutually acceptable amendment that is entered into, if any, Purchaser shall submit an Approval Application to the Commission for such amendment to obtain a Commission Approval Order; and
  
- D. WHEREAS, Section 20.10 of the REPA requires that any modification or amendment to the REPA be made in writing and signed by both Parties.

**NOW THEREFORE**, in consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

Definitions. Capitalized terms used in this Amendment and not otherwise defined herein shall have the meanings assigned to such terms in the REPA.

1. Amendment Effective Date. The Parties agree to amend the REPA as set forth in Section 2 hereof, which amendments will be effective as of July 25, 2014 ("Effective Date").

2. Amendments. The Agreement will be amended as of the Effective Date as follows:

- a. Section 6.1(A) is amended as follows: "Section 6.1(A) Purchaser's Conditions Precedents." Section 6.1 (A) of the REPA is hereby amended (i) by inserting "December 31, 2014" in both locations to replace the reference to "June 30, 2014" (ii) by inserting "January 31, 2015" in both locations to replace the reference to "July 31, 2014", (iii) The sixth sentence and the remainder of Section 6.1(A) is deleted and replaced with the following: "If the Parties enter into a mutually acceptable amendment to address the financial risks posed to Purchaser with respect to a Commission order on or before November 1, 2014, Purchaser will submit a Commission Approval Application with the Commission for the REPA, as amended to address the financial risks posed by a Commission order under appeal and Purchaser must receive a Commission Approval Order on or before December 31, 2014 for such amended REPA. The form of Purchaser's Approval Application for such amended REPA and the conduct by Purchaser of any proceedings, including any settlement or appeal, related to or arising from such Approval Applications shall be determined in the sole discretion of Purchaser. Neither Seller nor any of its Affiliates, employees or agents shall engage in discussions with the Commission or any other party to any proceedings related to the Approval Application for such amended REPA, or otherwise participate in any meetings with the Commission or any such other party, or intervene in any such proceedings, without Purchaser's consent. If there is no Commission Approval Order for such amended REPA, if any, by December 31, 2014 or Purchaser and Seller are unable to reach an agreement on the terms of any such amendment to the REPA, recognizing that neither party is obligated to agree to the terms of such an amendment that it does not find acceptable, Purchaser, by notice to Seller delivered on or before January 31, 2015, may terminate the REPA including, for the avoidance of doubt, all amendments of the REPA, without any further financial or other obligation to Seller as a result of such termination, except that Purchaser shall return the Security Fund to Seller. If Purchaser has not on or prior to January 31, 2015 i) provided notice to Seller of a termination of the REPA including all amendments of the REPA as a result of having no Commission Approval Order for such amendment, if any, to address the financial risks posed by a Commission order to the REPA by December 31, 2014 or ii) provided notice to Seller of a termination of the REPA including all amendments of the REPA as a result of not reaching agreement upon a mutually acceptable amendment to the REPA to address the financial risks imposed on Purchaser as a result of a Commission order, Purchaser shall be deemed to have waived its right to

terminate this REPA, as amended herein or otherwise, for failure to achieve such conditions precedent."

- b. Section 11.1 (A) Seller Security Fund. Section 11.1(A) of the REPA is hereby amended by inserting "January 31, 2015" to replace the reference to "July 31, 2014".
- c. Section 11.2 Early Termination Right of Seller; Termination Prior to Financial Closing. Section 11.2 (C), (D), (E), and (F) are all hereby amended by inserting "May 31, 2015" to replace all references to "November 30, 2014".

3. General Terms.

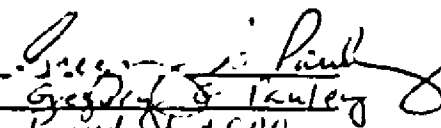
- (a) REPA. Except to the extent expressly modified by this Amendment, all other terms and conditions of the REPA will remain unmodified and continue in full force and effect. Any reference to the REPA from and after the Effective Date will be deemed to refer to the REPA as amended hereby, unless otherwise expressly stated.
- (b) Governing Law. This Amendment will be governed by the same state whose laws govern the REPA.
- (c) Counterparts. This Amendment may be executed in any number of counterparts, each of which will be an original and all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF, Seller and Purchaser have duly executed this Fifth Amendment as of the date first written above.

**ecoPower Generation-Hazard LLC**

By:   
Name: Gary T. Crawford  
Title: Chief Executive Officer

**Kentucky Power Company**

By:   
Name: Gregory J. Kaulery  
Title: President & COO