

COAL CONTRACT AMENDMENT NO. 2

THIS COAL CONTRACT AMENDMENT NO. 2 is made and entered into as of the 15th day of November, 2017, by and between B & N Coal, Inc., an Ohio corporation with its principal office at P. O. Box 100, Dexter City, Ohio 45727, hereinafter called "SELLER," and East Kentucky Power Cooperative, Inc., a Kentucky corporation with its principal office at 4775 Lexington Road, P. O. Box 707, Winchester, Kentucky 40392-0707, hereinafter called "BUYER."

WITNESSETH

WHEREAS, BUYER and SELLER entered into a coal contract dated December 14, 2012, as amended October 16, 2014, hereinafter referred to as the "Contract," for the purchase and delivery of coal to BUYER'S Gilbert Unit No. 3 and Unit No. 4 at its Spurlock Power Station, Maysville, Kentucky, (the "Plant"); and

WHEREAS, the parties have concluded negotiations and wish to amend the Contract, Contract No. 824, to decrease the monthly quantity, revise the base price of coal, extend the term, revise the coal price adjustments, and make other agreed changes, due to the reopener of the Contract.

NOW, THEREFORE, for and in consideration of the mutual covenants contained herein, the parties hereby agree that the Contract is amended, with such amendments to be effective as of the date hereof except where another effective date is otherwise specifically stated, as follows:

1. The following new Sections 1 (a), (b), and (c) shall amend and replace in its entirety the existing Sections 1 (a), (b), and (c), effective April 1, 2018:

1. Quantity and Term

(a) SELLER does hereby agree to sell to BUYER and BUYER agrees to purchase from SELLER, Two Million Three Hundred Forty Thousand (2,340,000) tons of coal (the "Total Contract Tonnage") over nine (9) years at a rate of Two Hundred Seven Thousand (207,000) tons in 2013; Two Hundred Seventy-Six Thousand (276,000) tons in 2014, 2015, 2016, 2017; Two Hundred Forty-Nine Thousand (249,000) tons in 2018; Two Hundred Forty Thousand (240,000) tons in 2019, 2020, and 2021, and Sixty Thousand (60,000) tons in 2022 (the "Base Annual Tonnage Amount") subject to Sections 3 (c), 5 (d), and 7 herein, and BUYER'S right to revise the Total Contract Tonnage and Base Annual Tonnage Amounts through the adjustment of Base Monthly Delivery Amount, as provided in Section 1 (c) hereinbelow.

(b) Base Monthly Delivery Amount for coal shall be as follows:
April 1, 2013, through March 31, 2018—Twenty Three Thousand (23,000) tons per month; and April 1, 2018, through March 31, 2022—
Twenty Thousand (20,000) tons per month

(c) Monthly deliveries shall commence on April 1, 2013, and continue through March 31, 2022, for a total contract Term of nine (9) years. The Term is subject to extension pending a successful reopener at a predetermined interval as provided in Section 3 (c) hereinbelow.

2. The following new Section 2 shall amend and replace in its entirety the existing Section 2:

2. Coal Price

The Base Price (the "Base Price") for all coal supplied hereunder meeting the quality specifications contained herein on an "as received" basis as described in Section 4 (g) and f.o.b. barge at M. I. E./Dockside Dock, Ohio River Milepost 179.0 ("the Dock") or other dock, mutually agreed upon by BUYER and SELLER shall be by year, as listed below:

<u>Contract Year</u>	<u>Base Price (Cents per million Btu)</u>
Year 1 (4/1/13-3/31/14)	\$1.802 (\$40.00 at 11,100 BTU per pound)
<u>Year 2 (4/1/14-3/31/15)</u>	<u>\$1.856 (\$41.20 at 11,100 BTU per pound)</u>
Year 3 (4/1/15-9/30/15)	\$1.815 (\$40.29 at 11,100 BTU per pound)
(10/1/15-3/31/16)	\$1.842 (\$40.89 at 11,100 BTU per pound)
Year 4 (4/1/16-9/30/16)	\$1.869 (\$41.49 at 11,100 BTU per pound)
(10/1/16-3/31/17)	\$1.896 (\$42.09 at 11,100 BTU per pound)
Year 5 (4/1/17-9/30/17)	\$1.923 (\$42.69 at 11,100 BTU per pound)
<u>(10/1/17-3/31/18)</u>	<u>\$1.950 (\$43.29 at 11,100 BTU per pound)</u>
Year 6 (4/1/18-3/31/19)	\$1.4604 (\$32.42 at 11,100 BTU per pound)
<u>Year 7 (4/1/19-3/31/20)</u>	<u>\$1.4604 (\$32.42 at 11,100 BTU per pound)</u>
Year 8 (4/1/20-3/31/21)	TBD
Year 9 (4/1/21-3/31/22)	TBD

EXAMPLE: In Year 6, the Base Price of coal with a heat content of 11,100 Btu/lb. would be \$32.42 per ton. For coal with a heat content of 11,300 Btu/lb., it would be \$33.01 per ton.

3. The following new Section 3 shall amend and replace in its entirety the existing Section 3, effective as of April 1, 2018:

3. Coal Price Adjustments

(a) The base price as stated in Section 2 shall be adjusted, as provided hereinbelow, beginning April 1, 2018, to arrive at the actual billing price. Twenty-five percent (25%) of the Base Price shall be adjusted monthly for the cost of diesel fuel, and when applicable, a trucking surcharge will also be subject to monthly changes, all described as follows:

I. Twenty-five percent (25%) of the base price shall change in direct proportion to changes in the index for No. 2 diesel fuel, WPU 0573-03 (not seasonally adjusted) as reported by the U.S. Department of Labor Statistics. The base month for this index will be June, 2017. Effective April 1, 2018, and each month thereafter, this portion of the base price shall change in accordance with changes in the fuel index for the preceding month, compared to the base month.

EXAMPLE: The following is a hypothetical example, for illustration purposes only, of a diesel fuel price adjustment for the month of April 2018. (Index numbers were randomly chosen.)

PERCENT CHANGE OF FUEL PRICE:

Base Index	June 2017	—	307.8
------------	-----------	---	-------

Current Index	March 2018	—	331.5
---------------	------------	---	-------

Difference			23.7
------------	--	--	------

PERCENT CHANGE:

Index Difference/Base Index = $23.7 \div 307.8 = 0.077$ or 7.7%

Adjustment on 25% of base price per million Btu =

$1.4604 \times 25\% \times 0.077 = 0.028$ (rounded).

By these figures, the adjustment for the month beginning April 1, 2018, would add \$.028 per million Btu to a base price of \$1.4604 per million Btu.

- II. Percentage changes shall be calculated to the nearest one-tenth percent (.1%). Price adjustments shall be calculated to the nearest hundredth of a cent per million Btu. The 25% fuel adjustment calculations shall be based on the Base Price per million Btu of this Contract of the applicable time period as defined as Year 6 or 7. All indices as noted above shall be the first preliminary figure.
- III. A trucking surcharge will be added to the billing price as long as the cost of diesel fuel remains above \$3.009 per gallon. All calculations for the trucking surcharge will be made based on the diesel fuel price using the EIA On-Road Diesel-National Average-Monthly index based on the preceding month. This surcharge for truck transportation will be subject to increase or decrease monthly based on the following scale:
- Diesel fuel price below \$3.009—Surcharge is \$0.00/ton;
 - Diesel fuel price between \$3.01 and \$3.259—Surcharge will be \$0.25/ton;
 - Diesel fuel price between \$3.26 and \$3.509—Surcharge will be \$0.50/ton;
 - Diesel fuel price between \$3.51 and \$4.009—Surcharge will be \$0.75/ton;
 - Diesel fuel price between \$4.01 and \$4.259—Surcharge will be \$1.00/ton;
 - The mechanism for the scale is that the surcharge will increase by \$0.25 for each \$0.25 increase in the diesel fuel price. Therefore, should fuel prices increase beyond the range set

forth above the same incremental scale will apply to calculate the fuel surcharge.

(b) The parties hereto agree that the price quoted herein for coal, in Sections 2, 4 (c), and 4 (d), includes the cost of complying with all existing Federal, State, or Local laws or regulations as of October 3, 2017. The parties agree to utilize the following procedures to adjust the price of coal to reflect changes in costs to SELLER resulting directly from any changes in federal, state, or local taxes, fees, special assessments, or similar levies directly relating to the mining, processing, or transportation of coal to be delivered pursuant to this Contract. This adjustment procedure shall not apply to changes in SELLER'S costs of complying with various federal, state, or local laws or regulations specifying health and safety, environmental or reclamation compliance standards, or similar requirements, unless such changes in costs result directly from changes in such laws or regulations, or from significant changes in the interpretation and enforcement of such laws or regulations that are applied on an industry-wide basis. SELLER must provide a detailed explanation of any such changes in compliance costs resulting from changes in such laws or regulations as part of any request for a price adjustment for increased compliance costs, and subsequent price adjustments based upon the same changes in such laws or regulations shall not be permissible hereunder.

SELLER shall submit any requests for price adjustment under this Section 3 (b) to BUYER **PRIOR** to the time SELLER desires such price adjustment to become effective, to allow BUYER a reasonable time in which to review such requests. In the event that SELLER is unable, using reasonable business care, to calculate the exact cost increase claimed as a price adjustment hereunder prior to the desired effective date, SELLER

shall submit its best reasonable estimate of such cost increase to BUYER for review and information purposes, subject to the submission of a final cost increase schedule. Failure of SELLER to submit a cost increase schedule or estimate to BUYER within a reasonable time prior to the desired effective date for a requested price adjustment hereunder shall constitute a waiver of SELLER'S right to request such price adjustment for any shipments made prior to SELLER'S submission of a cost increase schedule or estimate to BUYER. Any price adjustment hereunder shall be based only on a final schedule of cost increases and not an estimate submitted as provided hereinabove.

SELLER shall use its best efforts and reasonable business care to submit a final detailed breakdown of cost increases claimed as a basis for price adjustment hereunder to BUYER as soon as the information is available. Upon the receipt of said information, BUYER shall accept or reject the requested price adjustment.

In the event that the added cost of said taxes, fees, special assessments, or similar levies on the mining, processing, or transportation of coal rise to such a level that their inclusion in the price per ton of coal delivered under this Contract would increase said price to a level ten percent (10%) higher than the then-current billing price for coal under this Contract and the delivered price of coal of comparable contract terms and quality then reasonably available to BUYER, and the parties cannot agree on an acceptable price, then BUYER shall have the right, at its sole option, to terminate this Contract with no further obligation or liability to SELLER, except in regard to payment for shipments of coal received by BUYER prior to such termination.

In the event that any said taxes, fees, special assessments or similar levies, whether included in the base price of coal or added to the price of coal by escalation hereunder, are reduced and such reduction results in a cost decrease for SELLER, BUYER will submit to SELLER an estimate of the decreased costs, and the decreased cost per ton of coal, at which time SELLER, at its sole option, will accept or reject the estimate of the decreased cost. In the event that SELLER rejects the estimate submitted by BUYER, SELLER will submit its schedule of such decreased costs to BUYER, which BUYER, at its sole option, will accept or reject.

In the event that a request for price adjustment under this Section 3 (b) would not raise the price of coal sufficiently to give BUYER the right to terminate this Contract, as provided hereinabove, and BUYER and SELLER do not agree on the amount of the adjustment, the parties do hereby agree to first attempt to compromise said changes in costs and failing to do so, they will select a third and impartial representative within ten (10) days thereafter, and the three (3) of them will then attempt to agree upon said changes in costs, and their decision will be final and binding on the parties to this Contract. If the two (2) parties cannot agree on a third and impartial representative, then it is agreed that the Senior Judge of the Eastern District of Kentucky shall select said third person, and his decision, and the decision of the three (3) ultimate representatives, shall be binding upon the parties to this Contract. Time being of the essence, a final decision shall be made within three (3) months after the parties originally submit their alleged changes in cost. Each party will bear the cost of its representative and they shall equally share the cost of a third representative if needed.

(c) Between October 1, 2019, and December 31, 2019 (last quarter of 2019), the Parties shall jointly consider the effect of economic conditions and market prices in the coal industry to ascertain whether the Adjusted Price should be further adjusted. If it is thus ascertained that a substantial change has occurred in market prices, then the Adjusted Price for the Contract Tonnage shall be further adjusted to compensate for such change and the amount of such adjustment shall be mutually agreed upon by SELLER and BUYER, with the new price effective on April 1, 2020. If the parties are unable to agree with respect to a price adjustment during this re-opener period, then either party may terminate the obligations of the Contract Tonnage, effective on March 31, 2020. The intent of this Section 3 (c) is to avoid having SELLER experience a significant loss as a result of changed economic conditions and to insure that BUYER will not pay SELLER a price significantly higher than market prices for steam coal of similar quality, specifications, quantity, and availability.

4. The following new Section 10 shall amend and replace in its entirety the existing Section 10, effective as of April 1, 2015:

10. Security for Performance

To assure, in part, performance under this Contract, by no later than March 1, 2018, SELLER shall provide BUYER with a Two Hundred Forty Thousand Dollar (\$240,000) Performance Bond from a Surety that is approved by BUYER and in a form acceptable to BUYER for Contract Year 6 of the Term. A Performance Bond is required for each performance year. Provided SELLER is not then in default under this Contract, upon delivery of the Performance Bond for Contract Year 6 of


the Term, BUYER shall then release SELLER'S existing Performance Bond being held for the benefit of BUYER.

Said bond shall be paid and delivered to BUYER in the event of default or material breach of this Contract by SELLER or the insolvency or bankruptcy of SELLER. It is understood and agreed by the parties, however, that said security does not represent "liquidated damages," but it is additional security from SELLER to BUYER in the event of a default or breach of this contract by SELLER.


5. All other provisions of the Contract not specifically affected by this amendment shall remain in full force and effect.

IN TESTIMONY WHEREOF, WITNESS the signatures of the undersigned duly authorized representatives, on the date first above written, in triplicate originals, for and on behalf of said parties.

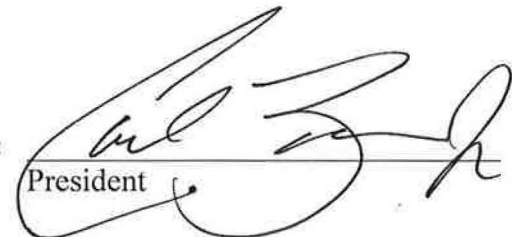
ATTEST:


Secretary

ATTEST:


Recording Secretary

SELLER: B & N Coal, Inc.

BY: 
President

BUYER: East Kentucky Power Cooperative, Inc.

BY: 
President & Chief Executive Officer