



Amendment 3/5 Workshop

Privileged and Confidential



A "Localistone Energy Cooperative" 



OUTLINE OF A3 & A3 LIMITATIONS

Dorothy Franzoni
Sutherland Asbill & Brennan LLP

Privileged and Confidential



A Touchstone Energy Cooperative

Amendment No. 3

- Member may elect non-EKPC supply for up to 15% of its load, subject to an aggregate cap for all Members of 5% of EKPC's load.
- Amendment 3 elections are no longer part of the Wholesale Power Contract.
- 90 days notice for non-EKPC supply to serve load with an average coincident peak demand ≤ 5 MW; 18 months notice for non-EKPC supply ≥ 5 MW.
- Once a load is returned to EKPC system, may not be served by non-EKPC supply again.
- Non-EKPC supply for a new service territory only permitted if acquisition terms require the territory to continue to be served by non-EKPC supply.
- EKPC shall supply, and Member shall pay, for interconnection, transmission and ancillary services for non-EKPC supply.
- Member solely responsible for all additional costs.

Limitations of Amendment No. 3

- Allows non-EKPC supply only for a specific load.
 - Non-EKPC supply for a percentage of a Member's total load is not permitted.
- Non-EKPC supply must follow load shape of specified load.
 - 7 x 24 energy blocks not permitted.
 - Load-shaped supply is not generally available in small kW amounts.
- Use of non-EKPC supply for a newly acquired service territory is very limited.
 - Permitted only if acquisition terms require that territory continue to be served by the existing supplier.

Limitations of Amendment No. 3

- Each Member does not control whether it will be able to exercise a non-EKPC supply option when the Member has an opportunity.
 - Allocation Committee under Policy 305 may have already allocated the full 5% of EKPC's total load to other Member(s) by the time a Member has its first opportunity to exercise its non-EKPC supply option.
- Requires only 90 days notice for non-EKPC supply < 5 MW, and 18 months notice for non-EKPC supply > 5 MW.



PROPOSED AMENDMENT 5

Don Mosier

Privileged and Confidential



A Truist Energy Cooperative

Proposed Amendment 5

- Underlying principal is fairness for all Members.
- Adds flexibility in types of non-EKPC supply a Member can elect.
 - Specific load or loads; or % of existing load.
 - New generation including DG, or bilateral off-take agreements.
 - Renewable resources such as stranded gas, solar, wind, biomass.
 - Load following and/or block purchases.
 - Member requests for EKPC to source market supplies.
- Gives each Member control over whether its 5% can be used by another Member, subject to aggregate cap of 5% of EKPC's previous rolling 3-year peak.
- Expressly provides that electing Member will be responsible for costs incurred, so that non-EKPC supply obtained by one Member does not shift costs to other Members.

Proposed Amendment 5

- Exclusions from responsibility for stranded costs include:
 - New generation based on renewable resources.
 - Distributed Generation < 2.5 MW that “peak shaves” EKPC’s Coincident Peak.
 - Member Acquisition of “New Load”.
 - Retail load $\geq 2,500$ kW for one customer (can be at multiple meters), as to which the Member elects non-EKPC supply when the Member first starts serving load at the applicable meter(s).
 - New or re-started ($\geq 2,500$ kW) retail load at a facility previously served by the Member after at least 12 months have elapsed since previous service was provided by the Member.
 - Newly acquired service territory, as to which the Member elects non-EKPC supply when the Member first starts serving the territory.
- Grandfathering of existing non-EKPC supply resources.
 - To be specifically identified in Schedule to Amendment 5.
 - Counts toward Member’s 5% limit and 5% aggregate cap as noted earlier.

Proposed Amendment 5

- Amendment 5 to establish common understanding on guiding principles.
- EKPC will develop appropriate policies/procedures with your input to implement Amendment 5 which will change over time, depending on a number of factors, such as:
 - Cost determination methodology elected.
 - Present and future EKPC rate structures.
 - DSM and Economic Development strategies.
 - Whether EKPC joins an RTO, and changes in RTO requirements.
 - Evolving NERC reliability standards and compliance requirements.



A3 MORE DETAILS

**David Crews / Isaac Scott / Denver York /
Sherman Goodpaster**

Privileged and Confidential

Amendment 3 Need to Know

- Wholesale Power Contract.
- Cost impact to Members.
 - Direct Assignment.
 - Socialization.
- DG & Renewable Projects.
- Bundled vs. Un-Bundled Service.
- Transmission & Ancillary Services.
- Commission Approvals.

Wholesale Power Contract

- EKPC's fixed costs do not change as a result of removing load from the Wholesale Power Contract.
- Removing billing determinates from a rate leads to collection of inadequate revenues to fund the revenue requirement.
- Underfunding of the revenue requirement must be addressed (i.e. EKPC's financial integrity).

Rate Impact Example

Demand rate recovery

Utility Q currently has a 2,000 MW demand. If load is reduced by 50 MW, the demand rate impact is:

	Before Reduction	After Reduction
Demand Revenue Requirement	\$95,500,000	\$95,500,000
Annual Billing Determinates (kW)	19,100,000	18,500,000
Demand Rate (\$/kW Month)	\$5.00	\$5.162

Effect on Resource Planning

- Modeled what removing 50 MW of load in 2012 would do to resource plan - most cost effective option from Smith investigation.
- Reduction did not change expected date for 5-year block of capacity beginning in 2017, addition of combined cycle turbines in 2021 and 2022, purchased capacity in 2024, or peaking combustion turbines in 2027 and 2028.
- Reduction did eliminate a seasonal purchase in 2012 and the need for a capacity option in 2014; however, it moved up a seasonal purchase from 2016 to 2015 and added an additional season purchase in 2016.
- Under this resource plan, removing 50 MW changes only the timing of some purchases, but not investments in facilities.



Discussion & Questions

Privileged and Confidential



A Touchstone Energy Cooperative 

Options to address Underfunding

- Options:
 1. Direct Assignment.
 2. Socialization.



Discussion & Questions

Privileged and Confidential

Rate Impact of Socialization.

Percentage Increase over Current Demand Rates		
	E1	E2
Load Reduction of 600,000 kW	2.003%	1.827%
Load Reduction of 1,200,000 kW	4.255%	3.821%
Load Reduction of 1,800,000 kW	6.508%	5.980%

- Increase in demand rates would apply to all Members including those reducing load.
- Energy rates would also be impacted, as some fixed costs are recovered through energy rates. That impact has not been determined. Any change in revenues generated by base rates would also impact the calculation of the environmental surcharge.

Socialization

- Rate impact determined by using the billing analysis from EKPC's last base rate case and assumes the load being removed is from Schedule E1 and E2.
- The demand revenues for E1 and E2 were adjusted to reflect an offset from potential transmission revenues.
- The rate impacts for removed monthly loads of 50 MW, 100 MW, and 150 MW were modeled; rate impact determined on an annual basis.
- Removed load allocated proportionally between E1 and E2.



Discussion and Questions

Privileged and Confidential

Direct Assignment

- As of February 2011, the net book value of Steam Generation and Other Production assets was \$1.628 billion
- The three-year average (2008-2010) of EKPC coincident peaks excluding Gallatin Steel is 2,980 MW
- A 50 MW reduction of load would produce a “Share of Load” ratio of 1.68% and a direct assignment of \$27.3 million
- Stated another way, the direct assignment associated with 1 MW would be approximately \$546,500

Direct Assignment

- Under the net book value method, the original cost of Steam Generation and Other Production assets less the corresponding accumulated depreciation is calculated.
- The percentage of the load being removed divided by the three-year average of EKPC's coincident peaks excluding Gallatin Steel, a "Share of Load" ratio, is applied to the current net book value to determine the stranded costs associated with the load being removed from the Wholesale Power Contract.

Direct Assignment

- Another option is to make an annual payment based on net book value depreciation and interest.
- Under this option, the annual assessment would be the depreciation and interest calculated for the current year and assigned based on the load ratio share as previously described.
- The benefit of this method would be that there is not a huge payment up front and if the load returns, we don't have to wrestle with how to credit the member.

Direct Assignment

- Another option is the lost revenues method.
- Under the lost revenues method, the lost revenues associated with the load being removed would be determined.
- The net present value of these revenues over a period of years would then be calculated.
- This “stream” of lost revenues would be offset by the avoided costs expected for the same period of years.
- The avoided costs would be determined using the production cost model.



Discussion and Questions

Privileged and Confidential



DISTRIBUTED GEN. & RENEWABLES

David Crews

Privileged and Confidential



A Touchstone Energy Cooperative

Distributed Generation

- DG (Peak Shaving)
 - Peak Shaving has value.
 - Propose that Peak Shaving be handled in the DSM program.
 - It can serve load on the system without having a negative impact on the customers.
 - Our DSM program needs to provide a price signal to generation assets at the Member and retail customer level to operate during peak hours.
 - The program should only provide an incentive or price signal in months when peak shaving benefits the system.

Renewable

- Renewable Projects
 - EKPC is believes Renewable Projects should be exempted from stranded cost assignments
 - Renewable Projects need to be defined.



Discussion and Questions



BUNDLED VS. UNBUNDLED

David Crews

Privileged and Confidential



A Touchstone Energy Cooperative

Bundled vs. Unbundled

- The Wholesale Power Contract provides bundled rates to Members.
 - Bundled rates include:
 1. Capacity and Energy.
 2. Reserves.
 3. Transmission Service.
 4. Transmission Ancillary Services.
 5. Transmission to Distribution transformation services.
 6. EKPC Overheads.

- Unbundled rates require that you purchase the following services independently.
 1. Capacity and Energy.
 2. Transmission Service.
 3. Transmission Ancillary Services.
 4. Interconnection of Generation.
 5. Management of Your Power Supply.



Discussion and Questions

Privileged and Confidential



TRANSMISSION EXPENSES

Denver York

Privileged and Confidential



A Truistone Energy Cooperative

Transmission Service

- Any entity wishing to move wholesale power across the Bulk Electric System must be offered non-discriminatory rates and services by the transmission service provider.
- If a Member wishes to serve a portion of their load by a non-EKPC source, in accordance with the WPA, and the source for the capacity and energy is not located on the Member's distribution system with the load, EKPC will offer non-discriminatory rates and services to that Member.
- This offer cannot be declined unless the Member demonstrates it has acquired these services from another source.

OATT (www.oatioasis.com/ekpc)

- **Schedule 1**
 - Scheduling, System Control, and Dispatch Service.
 - Must take from EKPC.
 - \$0.08856 per kW per Month.
- **Schedule 2**
 - Reactive Supply and Voltage Control.
 - Must take from EKPC.
 - \$0.03978 per kW per Month.
- **Schedule 3**
 - Regulation and Frequency Response Service.
 - May choose alternative supply if available.
 - \$0.12837 per kW per Month.

OATT (www.oatioasis.com/ekpc)

- **Schedule 4**
 - Energy Imbalance Service.
 - May choose alternative supply if available.
 - Cost based on incremental or decremental cost of the supplier's resource mix.
 - 100% of cost for deviations +/- 1.5% (minimum of 2 MW).
 - 110% of cost for deviations between 1.5% and 7.5% (2 MW minimum up to 10 MW).
 - 125% of cost for deviations greater than 7.5% (10 MW).
- **Schedule 5**
 - Operating Reserve – Spinning Reserve Service.
 - May choose alternative supply if available.
 - \$0.12837 per kW per Month.

OATT (www.oatioasis.com/ekpc)

- **Schedule 6**
 - Operating Reserve – Supplemental Reserve Service.
 - May choose alternative supply if available.
 - \$0.25673 per kW per Month.
- **Schedule 7**
 - Long-Term Firm Point-To-Point Transmission Service.
 - To serve load on EK, purchase NITS instead (Schedule 9).
 - May be required to purchase P2P on another system to get the power/energy to the EK border.
 - \$1.94 per kW per Month (TVA).
 - \$0.94 per kW per Month (KU/LGE).
- **Schedule 9**
 - Demand Charge for Network Integration Transmission Service.
 - Must purchase from EKPC.
 - \$1.62 per kW per Month.

OATT (www.oatioasis.com/ekpc)

- **Schedule 10**
 - Generator Imbalance Service.
 - May choose alternative supply if available.
 - Customer pays Schedule 10 or Schedule 4, not both.
 - Same rate structure as Schedule 4.
 - Provision for intermittent resources.
- **Schedule 11**
 - Loss Compensation Service.
 - May choose to self-supply losses or purchase from EKPC.
 - If EKPC supplies.
 - Energy Charge = $2.5\% * \text{Energy} * 110\%$ of AVC.
 - Demand Charge = \$8.56 per kW of Reserved Capacity per Month.
 - Reserved Capacity is that Capacity reserved for losses.
 - 4% of the maximum hourly energy.

Transmission & Ancillary Services

- Must be purchased to move power from the source to the load if using the Bulk Electric System.
- Would likely add \$5 to \$11 per MWh.
 - Depending on location of source.
 - Depending on load factor of the load.



Discussion and Questions

Privileged and Confidential



A Truist Energy Cooperative



PSC APPROVALS

Sherman Goodpaster

Privileged and Confidential



A Truist Energy Cooperative

PSC Approval and Requirements

- KRS 278.300 requires any utility subject to the jurisdiction of the PSC to get approval of the PSC to issue any evidences of indebtedness that have a term longer than two years.
- The PSC considers a contract for the purchase of power the same as an evidence of indebtedness and therefore requires approval for a Power Purchase Agreement (“PPA”) with a term longer than two (2) years.
- This would more than likely require a showing that the PPA was the least cost option to the utility.



Discussion and Questions

Dale Henley

From: Roy Palk
Sent: Friday, May 30, 2003 12:40 PM
To: David Eames; Dale Henley
Subject: FW: RUS meeting

5/30/03
 Dave - See my
 reply/attachment
 on website of R.M.P.
 W.P.C.

-----Original Message-----

From: Jerry Purcell [mailto:jpurcell@skrecc.com]
Sent: Mon 5/26/2003 10:52 PM
To: 'Rick Stephens'; Roy Palk
Cc: 'Tom Estes'; 'John Pruitt E-mail'; 'Jeff'; 'Darrell Saunders'; 'charles gore'; 'Carol Caudill'; 'bill shearer'; 'Allen Anderson'; 'Glen Massengale'; 'Wayne Stratton'; 'Dudley Bottom Jr E-mail'; 'Delno Tolliver'
Subject: RE: RUS meeting

In my opinion Rick well worded, always heard the truth is the best route and far as I am concerned that is what you have stated. I for one am very concerned about signing anything that limits our options too much going down the road.

Jerry

-----Original Message-----

From: Rick Stephens [mailto:rick@stephensprop.com]
Sent: Saturday, May 24, 2003 11:34 AM
To: Roy Palk
Cc: Tom Estes; 'John Pruitt E-mail'; Jerry Purcell; Jeff; Darrell Saunders; charles gore; Carol Caudill; bill shearer; Allen Anderson; Glen Massengale; Wayne Stratton; Dudley Bottom Jr E-mail; Delno Tolliver
Subject: RUS meeting

Roy

Just received you letter, dated 5/23/03 that RUS is prepared to take the Gilbert unit to the loan committee in June. I know the interest rate spread is a large amount of money. Interest rate's are also the lowest in history.

However, I have a real concern that having known that some of the coop's, have some problems with the all power requirement contract a meeting to talk about the issue is set for June 4 with RUS. This is in my mind, a very late date to be starting to talk about any problems, when at least 2 years have passed from the first time a problem was stated. I could, get the feeling that compressing the time is the best plan for EKP to apply pressure and paint some of the coop's as black sheep or trouble makers. I hope this is not the case, but at the very least the timing is poor.

It is things like this, that cause me have uneasy feeling about the true intent of EKP. The true coop intent, is for people to work together for the good of all. Not to just follow the leader, and do as we are told, when we are told to do it. With 2 years to address any problems, this should have been behind us, not in the front, with little time to work out any problems.

Rick

The existing Wholesale Power Contract, made in 1964, between the member-owners and EKPC; had an initial term expiring in 2010. When loan funds were obtained in 1976 to finance Spurlock Station Unit No. 2, RUS required an extension of the contract until 2018; and when loan funds were obtained in 1980 to finance Smith Station, RUS required an extension of the contract until 2025. To my knowledge, it has been the practice of every RUS Administrator to require, as a condition of making or guaranteeing G&T loans, that the G&T and its member-owners make, or extend the Wholesale Power Contract for a term that typically covers the period of the loan's repayment.

In 2001, when the Board voted to build and fund Gilbert using RUS financing, it was logical and reasonable, based on past practices, to understand that RUS would condition its funding based upon an extension of the contract. As early as September 2001, EKPC began soliciting member-owner board resolutions to the effect that they intended to extend the contract. In February 2002, I reported to the Board that about half of the member-owners had submitted such a resolution. To date, we have received 11 resolutions.

I think it important to remember that EKPC is merely the means by which South Kentucky RECC and the other member-owners generate and transmit electric power for themselves rather than purchasing power and transmission service from third parties. As a financial matter, our structure is intended to and does operate as basically one organization with EKPC's financial strength primarily resting on the retail sales of its member-owners. For this reason, the Wholesale Power Contract really exists for the benefit of member-owners, and provides each of them with assurances that they will have access to an adequate supply of competitively priced, dependable power. The sale of that power, in turn, provides the primary source of revenue to EKPC for repaying its RUS loans, but also, and importantly, provides the revenues to repay each of the member-owners' obligations to RUS.

I hope that my review of the Wholesale Power Contract, and its history, is helpful in remembering how and why it operates as it does, and that it should not be unexpected that an extension of the contract would be an RUS condition for making the Gilbert loan.

I understand that some member-owners have a problem with extending the contract until 2041 as requested by RUS. However, the load to support Gilbert is already in place with each of the member-owners contributing to that load and expressing a need for it. We have also tried to identify some areas of flexibility in the contract, and such a proposal was addressed in the committee meeting of the whole on December 2, 2002. Copies of the proposal was distributed, with a request that it be considered as a possible basis for amending the contract. The proposal was revisited at the March 2003 Board Meeting when Allen Anderson commented on certain opportunities available to South Kentucky RECC, and how the amendment might benefit him. At that time, I issued another invitation to contact me regarding ideas and suggestions, and offered EKPC to host such a meeting. On April 28, 2003, the earlier proposal distributed in December was again sent to each of the member-owners' managers.

At the May 2003 Board Meeting, a suggestion was made to invite RUS representatives to meet with the parties to further discuss possible ways of providing flexibility in the contract. This meeting is scheduled for next week. I am hopeful that it will be productive, and that concerns can be successfully addressed. Although time is growing short, I did want to review all of the steps which have been taken over the past two years to address these issues.

I am available to discuss these matters at your convenience. You can always reach me on my cell phone at 859.771.1900.

Sincerely,

Roy M. Palk
President and Chief Executive Officer

rmp/lm

(H:legal/dhletters/wpcmem)

Board Agenda Item

JUNE

TO: Operations, Services & Support and Board of Directors

FROM: Roy M. Palk *Roy M. Palk*

DATE: May 30, 2003

SUBJECT: Wholesale Power Contract Amendment No. 3

KEY MEASURE(S) Competitively Priced Energy

Removed from June 03 agenda

Background

On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners. On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000.

RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") by each of the member-owners through 2041. RUS has also indicated that it would consider modifications to the WPC to permit some flexibility to member-owners under their present obligation to secure all of their system power supply needs from EKPC.

Justification and Strategic Analysis

RUS financing is the least cost option for Gilbert. As a condition for making the loan, RUS requires that EKPC and its member-owners extend the WPC through 2041. Extension of the WPC, with acceptable modifications, assures the financial support of the member-owners for EKPC's operations. Extension of the WPC, in turn, is relied upon by RUS to ensure that its loan is adequately secured. Thus, the extension through 2041 is intended to cover the period of the loan repayment and, provides assurance that the member-owners will have an adequate source of competitively priced dependable wholesale power with which to generate retail sales that will provide the primary source of revenue to EKPC for repaying the Gilbert loan, and their own obligations to RUS.

Board Agenda Item

JUNE

This amendment also provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC.

Recommendation

Management recommends that the Board approved Amendment No. 3 to the WPC and requests that each of the member systems have its board of directors approve it at their next meeting.

rmp/lm

Resolution

JUNE

WHOLESALE POWER CONTRACT AMENDMENT NO. 3

Whereas, On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners;

Whereas, On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000;

Whereas, RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") through 2041;

Whereas, The proposed amendment provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC; and

Whereas, RUS financing is the least cost option for Gilbert; now, therefore be it

Resolved, That the EKPC Board approves Amendment No. 3 to the WPC, as attached, subject to RUS review and approval; and

Resolved, That the EKPC Board requests that each of its member-owner cooperatives approve and execute Amendment No. 3 at their next board meeting.

WPC

MEMORANDUM

TO: Board of Directors
Member System Managers

FROM: Roy M. Palk

SUBJECT: Wholesale Power Contract (“WPC”); Amendment 2, Paragraph 1

DATE: June 5, 2003

On Wednesday, June 4, 2003, Victor Vu, head of the Power Supply Division for RUS, spoke to a group of EKPC Directors, Member System Managers and their staff, regarding amendments to the WPC to specifically include extending the contract from its current expiration date of 2025 until 2041. As a condition for making the Gilbert loan, Mr. Vu indicated that RUS would have to have the extensions from all member-owners by not later than late July, 2003, if EKPC and its member-owners wanted to have the loan approved within this fiscal year.

Mr. Vu indicated that RUS was comfortable with the draft amendment which has been circulating and shared with each of you; but he could offer no timeframe for RUS approval for other amendments which were offered by Fleming-Mason Energy Cooperative (“Fleming-Mason”) and South Kentucky RECC (“South Kentucky”), at the meeting on Wednesday.

The June Board Agenda includes action on an amendment to the WPC, although that action item may be deferred until the July Board Meeting so as to give consideration to amendments offered by Fleming-Mason and South Kentucky.

Mr. Vu stated that RUS recognized the need to add some flexibility to the WPC and clarified RUS’ position that the five percent flexibility applied to EKPC’s system-wide load, and not to just one member system’s load. Any other amendments to flexibility would require a case-by-case review by what he described as a very limited and undermanned staff.

The Fleming-Mason proposal is attached, and the South Kentucky proposal is expected on Friday.

rmp/ln

**TERM SHEET
FOR RENEWAL OF
ALL REQUIREMENTS CONTRACT ("ARC")**

- FORM. New Amended and Restated Wholesale Power Contract (modern contract form)
- TERM. Until first maturity of debt incurred to finance new generation plant, but not later than 2040.

ALL REQUIREMENTS OBLIGATIONS. The Buyer will purchase and Eastern Kentucky Cooperative ("EKC") will provide, unless prevented by force Majeure, all of the power and energy that the Buyer shall require for the operation of Buyer's system, except as provided below:

1. New Wholesale Customers. The requirements of any new wholesale customer of the Buyer after the effective date of this Contract EKC notifies the Buyer that it does not desire to serve the requirements of such new wholesale customer under this Contract.
2. New Territory/Customers. Buyer may elect, in its discretion, to serve the requirements of territory and/or customers acquired by purchase or acquired by merger or consolidation from another electric utility after the effective date of this Contract if such territory and/or any such customer was not subject to an all requirements contract with EKC on the effective date of the acquisition by purchase or if the utility acquired in a merger or consolidation was not a party to an all requirements contract with EKC prior to the effective date of the merger or consolidation.
3. Large Customers. Buyer may elect, in its sole discretion, to have large customers, i.e., those new customers after the effective date of this Contract, which have an expected demand obligation of 900kw or more to be served through contracts with person(s) other than EKC.
4. PURPA. Electric power and energy that the Buyer is required to purchase from persons other than EKC by federal law or regulations including the Public Utility Regulatory Policies Act of 1978 and regulations thereunder or by Kentucky laws or regulations, as any such laws or regulations may exist from time to time.
5. SEPA. Electric power and energy that the Buyer is entitled to purchase from SEPA from time to time.

6. Buyer Owned or Purchased Power. In addition to the foregoing, any electric power and associated energy that the Buyer may receive (i) from facilities owned or leased by the Buyer, (ii) from any person other than EKC, or (iii) from EKC other than under this Contract in an aggregate amount at the time of commencement of receipt of any such power and energy in an aggregate amount not to exceed five percent (5%) of the greatest amount of measured demand of the Buyer purchased from EKC hereunder on the one (1) hour monthly coincident peak of EKC, after adjustment to remove any interruptible power purchased by the Buyer from EKC.
7. Dispersed Generation. In addition to the foregoing, any electric power and associated energy that is provided from time to time by dispersed generation that the Buyer may receive (i) from dispersed generation owned or leased by the Buyer, primarily to serve a retail electric customer of the Buyer, (ii) from any retail electric customer of the Buyer, or (iii) from EKC, other than under this Contract, in an aggregate amount at the time of commencement of receipt of any such power and energy in an aggregate amount not to exceed five percent (5%) of the greatest amount of measured demand of the Buyer purchased from EKC hereunder on the one (1) hour monthly coincident peak of EKC, after adjustment to remove any interruptible power purchased by the Buyer from EKC.
8. Standard of Performance of Contract by the Buyer and EKC. Prudent utility practice.
9. Sale of Load Management. EKC shall cooperate with the Buyer to implement procedures pursuant to which large customers of the Buyer may sell load management to EKC or to persons other than EKC and receive 90% of the proceeds of such sale.
10. Retail Competition. EKC shall not, during the term of this Contract, without the consent of the Buyer, (i) sell or offer to sell electric power or energy at retail within the Buyer's assigned geographic area, if any, established by applicable laws or regulations, or (ii) offer to provide retail electric service to any existing customer of the Buyer.
11. Fixed Purchase Buyer. If EKC in the future determines to build a new generating plant with a nameplate capacity in excess of 200 MW and the Buyer does not wish to participate in the purchase of power and energy from such new generation plant, the Buyer may elect to become a Fixed Purchase Buyer. See generally the provisions of the Great River Energy agreement.

*Presented 1-6-04
to Operations Committee
then to Board*

WPC

Dear Member CEO,

This letter will confirm EKPC's commitment as set forth by the EKPC Board in its Resolution of October 2003. EKPC will use every effort to successfully convert any member co-op's Wholesale Power Contract, as amended, to a partial requirements contract and jointly submit this contract to RUS for its approval within 24 months.

As a result of this process, one might anticipate that the Wholesale Power Contract, as amended, may ultimately be replaced by a partial requirements contract. Obviously this contract would be subject to the approval of the boards of both EKPC and the member co-op as well as RUS.

Additionally, if a member co-op first obtains all necessary approvals from RUS and other regulatory or governmental entities, EKPC will support the exclusion from the all requirements provisions of the Wholesale Power Contract any municipalities and/or entities that acquire and/or distribute power which have their own recognized territories which are located within the territorial boundaries of the member co-op as established by state law which have been served by the municipalities and/or entities since the territorial boundaries were established. This exclusion from the all requirements provisions of the Wholesale Power Contract shall be in addition to the five percent-fifteen percent provisions of Amendment No. 3 to the Wholesale Power Contract, but otherwise subject to Paragraph (c) of Amendment Number 3.

These commitments are given by EKPC in consideration of all member co-ops' execution of Amendment Number 3 to the Wholesale Power Contract.

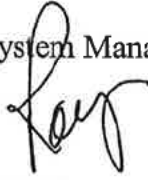
Very truly yours,

Roy M. Palk
President & CEO

Delno Tolliver
Chairman



MEMORANDUM

TO: Member System Managers
FROM: Roy Palk 
DATE: March 23, 2004
SUBJECT: EKPC Board Policy 305

As a reminder, attached is a copy of EKPC Board Policy 305—Allocation Procedures for Non-EKPC-Sourced Power Acquisitions Under Wholesale Power Contract Amendment Number 3, which was approved at the March 9, 2004, Board meeting.

Also attached is a schedule that shows each distribution member's 15% allocation. The policy requires a detailed, written plan by no later than June 7, 2004, on how you intend to utilize the requested allocation; otherwise your allocation will be returned to the Allocation Pool.

The Board Chairman has appointed the following to the Allocation Committee:
P. D. Depp, Bob Marshall, Allen Anderson, Bobby Sexton, and Dave Eames.

dh/dd

Attachments

cc: Roy Palk
Dave Eames
Dale Henley

EAST KENTUCKY POWER COOPERATIVE

Policy No. 305

March 9, 2004

ALLOCATION PROCEDURES FOR NON-EKPC-SOURCED
POWER ACQUISITIONS UNDER WHOLESale POWER
CONTRACT AMENDMENT NUMBER 3

I. BACKGROUND

Amendment Number 3 to the Wholesale Power Contract between East Kentucky Power Cooperative ("EKPC") and its member systems allows each member system executing the Amendment to purchase or otherwise acquire power and energy from non-EKPC sources up to a maximum of 15% of the member system's 3-year rolling average peak load (the "15% Option"), provided that the total of all such non-EKPC acquisitions by all member systems does not exceed 5% of EKPC's 3-year rolling average peak load (the "5% Cap").

II. OBJECTIVE

The objective of this Board Policy is to provide a reasonable mechanism to allocate the 5% Cap among the member systems so that those member systems with specific, identifiable projects that would be facilitated by the use of the 15% Option can proceed in a timely manner.

III. CONTENT

- A. An Allocation Pool is hereby created which will be made up of the combined total of the unused portions of each member system's load ratio share of the 5% Cap, as hereinafter set out.
- B. An Allocation Committee is hereby created as hereinafter set out which will administer the allocation of the unused portions of the member systems' load ratio share of the 5% Cap in the Allocation Pool to requesting eligible member systems.
- C. (1) As soon as is reasonably possible, but no later than 90 days after either the adoption of this Board Policy or the execution of Amendment Number 3 of the Wholesale Power Contract, whichever is later, each member system shall submit to the Allocation Committee a detailed, written plan of its intended use of its 15% Option (the "Plan"). Each Plan shall include the following:

- a) Whether or not the member system intends to use all or any portion of its load ratio share of the 5% Cap within 6 months of the date of submittal of the Plan;
 - b) How much of its load ratio share of the 5% Cap the member system intends to use;
 - c) A detailed description of the specific use to which it will be put;
 - d) The anticipated time frame within which the use will occur;
 - e) Any contracts or other agreements executed with respect to such use, and if none, the status of negotiations for such contracts or agreements and the anticipated date of execution thereof; and
 - f) Any other information that may be requested by the Allocation Committee.
- (2) A member system may immediately proceed to utilize that portion of its load ratio share of the 5% cap identified in its Plan.
 - (3) If a member system's Plan reveals that the member system does not intend to use any or all of its load ratio share of the 5% Cap, then the unused portion will be placed in the Allocation Pool.
 - (4) If, within 6 months from the submittal of its Plan, a member system does not use the portion of its load ratio share of the 5% Cap as stated in the Plan, or, if reasonable progress, in the determination of the Allocation Committee, has not been made by the member system toward such use, then that portion of the 5% Cap will be placed in the Allocation Pool.
 - (5) The Allocation Committee may require periodic progress reports with respect to such use at intervals of the Committee's determination.
- D. (1) At any time after submittal of its Plan, a member system who desires an initial allocation or an allocation of more than its load ratio share of the 5% Cap, shall submit a written request to the Allocation Committee, which request shall contain the same type of information as required by Paragraphs III(C)(1)(a-f) hereof.

- (2) The Committee shall determine whether to grant such a request by majority vote.
 - (3) If, within 6 months from the granting of any such request by the Committee, a member system has not used the allocation, or if reasonable progress, in the determination of the Committee, has not been made toward such use, then the allocation shall be returned to the Allocation Pool.
- E. Any new member of EKPC admitted by the EKPC Board of Directors ("Board") shall have the same rights as existing members with respect to the 15% Option and 5% Cap upon execution by the new member of the Wholesale Power Contract including Amendment Number 3. The new member shall submit a Plan within 90 days of its execution of the Wholesale Power Contract.
- F. The use of 15% Option shall be limited to the following:
- 1) Service of new load acquired by a member system and which was not part of the member's traditionally recognized service territory as certified by the Kentucky Public Service Commission pursuant to KRS 278.017.
 - 2) Distributed Generation projects owned by a member system.
 - 3) Other uses as established by the Board.
- G. A member may exceed the 15% Option only upon approval of the Board and RUS. Any request by a member system to so exceed its 15% Option shall be made in writing to the Allocation Committee and shall include all relevant information and justifications for such request. The Committee shall have the authority to request any additional information or documentation it feels is necessary or advisable. The Committee shall review and consider the request and make a recommendation to the full Board for action.
- H. Any determination or decision of the Allocation Committee may be reviewed by the Board at the request and upon the motion of any director and the Board may affirm, overturn or modify such determination or decision in its discretion.

IV. ORGANIZATIONAL RELATIONSHIPS

- A. The Allocation Committee shall report directly to the Board.
- B. The Allocation Committee shall have 5 members, 3 of which shall be managers, presidents or CEO's of member systems, 1 of which shall be a regular director of the Board, and 1 of which shall be an employee or other representative of EKPC. The members shall be appointed by the Chairman of the Board with the advice and consent of the other officers of the Board and in consultation with the President and CEO in accordance with Board Policy 105 and shall serve at the pleasure of the Board.
- C. The Committee is a continuing one, except for the EKPC representative, and the term of each member shall run for one year, coincident with the term of the Chairman of the Board, or until his successor is appointed. Appointments of committee members shall be staggered so that no more than two members leave the Committee each year. No member shall serve more than 4 consecutive years except that the term of the EKPC representative shall be indefinite.
- D. The Committee shall annually elect a Chairman, Vice-Chairman and Secretary. Minutes of each meeting shall be kept. The Chairmen of other Board Committees or any Board officer shall not be Chairman of the Allocation Committee.
- E. Meetings of the Committee shall be held at the call of the Committee Chairman, the Chairman of the Board, or at the call of three members of the Committee when there are items or other issues for consideration by the Committee. The time, location and agenda of the meeting shall be set in the notice.

29-Aug-03
08:29 AM

East Kentucky Peak Loads

As of
July 2003

EKPC (Energy Control Peak)	2000		2001		2002		2003		2001, 2002	Rus
	December	%	January	%	March	%	January	%	2003 3 yr Avg	Allowance 15%
									MW	MW
	2268		2322		2238		2568			
Big Sandy	66	2.90%	67	2.87%	66	2.95%	69	2.67%	67	10
Blue Grass	251	11.04%	252	10.80%	232	10.37%	287	11.11%	257	39
Clark	93	4.09%	96	4.11%	90	4.02%	107	4.14%	98	15
Cumberland	109	4.80%	118	5.06%	110	4.92%	111	4.30%	113	17
Farmers	105	4.62%	105	4.50%	101	4.51%	114	4.41%	107	16
Fleming Mason	141	6.20%	146	6.26%	167	7.46%	176	6.81%	163	24
Grayson	54	2.38%	59	2.53%	57	2.55%	61	2.36%	59	9
Inter County	105	4.62%	106	4.54%	97	4.33%	122	4.72%	108	16
Jackson	223	9.81%	240	10.29%	221	9.87%	243	9.41%	235	35
Licking	61	2.68%	62	2.66%	60	2.68%	65	2.52%	62	9
Nolin	143	6.29%	141	6.04%	135	6.03%	165	6.39%	147	22
Owen	312	13.73%	305	13.07%	294	13.14%	340	13.16%	313	47
Salt River	173	7.61%	168	7.20%	160	7.15%	199	7.70%	176	26
Shelby	83	3.65%	84	3.60%	76	3.40%	90	3.48%	83	13
South Ky	257	11.31%	272	11.66%	265	11.84%	312	12.08%	283	42
Taylor	97	4.27%	112	4.80%	107	4.78%	122	4.72%	114	17
Billing System	2273	100.00%	2333	100.00%	2238	100.00%	2583	100.00%	2385	119 (EKPC Avg x 5%



April 9, 2004

VIA FEDERAL EXPRESS

Mr. Victor T. Vu
Rural Utilities Service
Stop 1568
1400 Independence Ave. SW
Washington, DC 20250-1566

Re: Wholesale Power Contract Amendment No. 3
and Board Resolution from EKPC and its
Sixteen Members

Dear Victor:

Enclosed are three executed originals of Amendment No. 3 to the Wholesale Power Contract, along with copies of appropriate resolutions from EKPC and its 16 members authorizing same.

After execution by the RUS Administrator, or her designee, please return two originals to me, and I will assure that each of our member systems receives an original for its files.

Sincerely yours,



Dale W. Henley
General Counsel

dwh/ln
enclosure
c: Roy M. Palk

(H:\legal\dwhletters-dwh-vu-4-9)

be: Dave Eames ✓
Frankolina

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, December 9, 2003, at 9:30 a. m., EST, the following business was transacted:

After review of the applicable information, a motion was made by Fred Brown, seconded by Mike Adams, and, there being no further discussion, passed, with Rick Stephens and Lonnie Vice requesting that their "no" votes be recorded, to approve the following:

Whereas, The Rural Utilities Service ("RUS") has approved loan funds of \$433,863,000.00 for the Gilbert Generating Unit ("Gilbert") conditioned on extension of the Wholesale Power Contracts ("WPCs") through December 31, 2040 by all member-owners;

Whereas, This Board of Directors ("Board") approved Amendment No. 3 to the WPCs ("Amendment") at the October 2003 Board meeting, and regards same as a policy, rule or regulation for purposes of Section 1.04. Termination of Membership of EKPC's Bylaws;

Whereas, The Board officers have concluded that all member-owners must execute the Amendment not later than December 31, 2003, in order to protect this least-cost financing option offered by RUS; and

Whereas, The Board officers and the Operations, Services & Support Committee recommend that any member-owner failing to execute the Amendment by December 31, 2003, must indemnify, hold harmless and otherwise be responsible to East Kentucky Power Cooperative, Inc. ("EKPC") and other member-owners for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert; now, therefore, be it

Resolved, That the Board regards the Amendment as a policy, rule or regulation for purposes of By-Law interpretation;

Resolved, That all member-owners execute the Amendment by not later than December 31, 2003; and

Resolved, That any member-owner failing to execute the Amendment by December 31, 2003, shall indemnify, hold harmless and otherwise be responsible to EKPC, and other member-owners, for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert.

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 9th day of December, 2003.

A handwritten signature in cursive script that reads "Sam Penn". The signature is written in black ink and is positioned to the right of the witness text.

Sam Penn, Secretary

Corporate Seal

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, October 14, 2003, at 12:20 p. m., EDT, the following business was transacted:

After review of the applicable information, a motion was made by Fred Brown, seconded by Wayne Stratton, and, there being no further discussion and upon the Chairman's request for a roll-call vote, with the following Directors voting "yes:" Michael Adams, Fred Brown, Donnie Crum, P. D. Depp, Daniel Divine, E. A. Gilbert, Virgil "Jack" Ginter, Jimmy Longmire, C. F. Martin, Wade May, Sam Penn, A. L. Rosenberger, Wayne Stratton, and Delno Tolliver; and the following Directors voting "no:" Rick Stephens and Lonnie Vice; the following motion was passed with 14 "yes" votes and 2 "no" votes:

Whereas, On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners;

Whereas, On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000;

Whereas, RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") through 2041;

Whereas, The proposed amendment provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC;

Whereas, RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis; to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract with 24 months;

Whereas, RUS financing is the least cost option for Gilbert; and

Whereas, Management and the Operations, Services and Support Committee recommend approval; now, therefore, be it

Resolved, That the EKPC Board approves Amendment No. 3 to the WPC, as attached, subject to RUS review and approval;

Resolved, That the EKPC Board commits to making every effort to work with member-owners and RUS to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months; and

Resolved, That the EKPC Board requests that each of its member-owner cooperatives approve and execute Amendment No. 3 at their next board meeting.

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 14th day of October, 2003.



Sam Penn, Secretary

Corporate Seal



TO: Board of Directors
Member System Managers

FROM: David Eames *dje*

DATE: November 5, 2005

SUBJECT: Impact of Splitting Gilbert Loan Into Two Notes

Roy Palk asked me to send to you the attached information for your review prior to discussion at next Tuesday's Board meeting. The material is one analysis of the potential costs incurred by EKPC due to the split amortization of the Gilbert loan.

Should you have a question, please call me.

c: Roy Palk
Mike Hazelrigg/Fleming-Mason Energy
Jeff Greer/South Kentucky RECC
Attachment
By e-mail and U.S. Mail

SCHEDULE I

This schedule shows the normal amortization of the Gilbert loan over 35 years.

Schedule I

\$433,863,000

35-year

	Annual Principal Payments
1st year	3,781,830
2nd year	4,013,897
3rd year	4,260,204
4th year	4,521,625
5th year	4,799,088
6th year	5,093,577
7th year	5,406,137
8th year	5,737,876
9th year	6,089,973
10th year	6,463,675
11th year	6,860,309
12th year	7,281,282
13th year	7,728,088
14th year	8,202,311
15th year	8,705,633
16th year	9,239,842
17th year	9,806,832
18th year	10,408,614
19th year	11,047,323
20th year	11,725,226
21st year	12,444,727
22nd year	13,208,380
23rd year	14,018,893
24th year	14,879,142
25th year	15,792,179
26th year	16,761,243
27th year	17,789,773
28th year	18,881,417
29th year	20,040,047
30th year	21,269,776
31st year	22,574,965
32nd year	23,960,245
33rd year	25,430,530
34th year	26,991,038
35th year	28,647,304

433,863,000

Assumes Interest Rate of 6.0%

SCHEDULE II

This schedule shows the split and total amortization of the Gilbert loan split into two notes. One note is for 35 years for the 14 members that have extended the Wholesale Power Contract, and one note is for 20 years for the two members that have not.

Schedule II

	<u>\$433,863,000</u>		
	<u>\$352,913,000</u>	<u>\$80,950,000</u>	
	<u>35-year</u>	<u>20-year</u>	
	<u>Annual Principal</u>	<u>Annual Principal</u>	<u>Total Principal</u>
	<u>Payments</u>	<u>Payments</u>	<u>Payments</u>
1st year	3,076,218	2,168,534	5,244,751
2nd year	3,264,985	2,301,603	5,566,588
3rd year	3,465,336	2,442,837	5,908,173
4th year	3,677,982	2,592,738	6,270,720
5th year	3,903,676	2,751,838	6,655,514
6th year	4,143,219	2,920,700	7,063,919
7th year	4,397,462	3,099,925	7,497,387
8th year	4,667,306	3,290,147	7,957,453
9th year	4,953,708	3,492,043	8,445,751
10th year	5,257,685	3,706,327	8,964,012
11th year	5,580,315	3,933,760	9,514,075
12th year	5,922,743	4,175,149	10,097,893
13th year	6,286,184	4,431,351	10,717,535
14th year	6,671,926	4,703,275	11,375,201
15th year	7,081,340	4,991,885	12,073,224
16th year	7,515,876	5,298,204	12,814,080
17th year	7,977,076	5,623,321	13,600,397
18th year	8,466,578	5,968,388	14,434,966
19th year	8,986,117	6,334,629	15,320,747
20th year	9,537,538	6,723,345	16,260,883
21st year	10,122,795		10,122,795
22nd year	10,743,965		10,743,965
23rd year	11,403,253		11,403,253
24th year	12,102,997		12,102,997
25th year	12,845,680		12,845,680
26th year	13,633,937		13,633,937
27th year	14,470,564		14,470,564
28th year	15,358,529		15,358,529
29th year	16,300,983		16,300,983
30th year	17,301,269		17,301,269
31st year	18,362,936		18,362,936
32nd year	19,489,751		19,489,751
33rd year	20,685,711		20,685,711
34th year	21,955,060		21,955,060
35th year	23,302,301		23,302,301
	<u>352,913,000</u>	<u>80,950,000</u>	<u>433,863,000</u>

Assumes Interest Rate of 6.0%

SCHEDULE III

This schedule shows the differences in cash flow from the differing principal payment streams of schedules I and II. This is the amount of cash flow that EKPC will have to make up with additional borrowings. The second column shows the cumulative effect of the negative cash flow in the first 20 years and the positive cash flow in the last 15 years.

Schedule III

	Annual Cash Flow Difference Due To Principal Payments	Cumulative Cash Flow Difference Due To Principal Payments
1st year	1,462,921	1,462,921
2nd year	1,552,691	3,015,612
3rd year	1,647,970	4,663,582
4th year	1,749,095	6,412,677
5th year	1,856,426	8,269,103
6th year	1,970,343	10,239,446
7th year	2,091,250	12,330,696
8th year	2,219,577	14,550,273
9th year	2,355,778	16,906,050
10th year	2,500,336	19,406,387
11th year	2,653,766	22,060,153
12th year	2,816,611	24,876,763
13th year	2,989,448	27,866,211
14th year	3,172,891	31,039,102
15th year	3,367,591	34,406,692
16th year	3,574,238	37,980,930
17th year	3,793,566	41,774,496
18th year	4,026,353	45,800,849
19th year	4,273,424	50,074,273
20th year	4,535,657	54,609,930
21st year	(2,321,933)	52,287,997
22nd year	(2,464,415)	49,823,582
23rd year	(2,615,640)	47,207,942
24th year	(2,776,145)	44,431,797
25th year	(2,946,499)	41,485,298
26th year	(3,127,307)	38,357,992
27th year	(3,319,209)	35,038,782
28th year	(3,522,888)	31,515,895
29th year	(3,739,065)	27,776,830
30th year	(3,968,507)	23,808,323
31st year	(4,212,029)	19,596,294
32nd year	(4,470,494)	15,125,800
33rd year	(4,744,819)	10,380,981
34th year	(5,035,978)	5,345,003
35th year	(5,345,003)	(0)

SCHEDULE IV

This schedule, in the first column, shows the additional interest expense at an estimated 6% that EKPC will incur due to the differing cash flow over the 35-year loan period. The second column assumes the two members will reimburse EKPC for the difference over 20 years, since that is the length of their current Wholesale Power Contract.

In summary, the two members will have to pay an additional \$54,595,720 over 35 years or \$43,723,280 over 20 years.

Schedule IV

	Annual Interest Cost If Reimbursed Over:	
	<u>35 Years</u>	<u>20 Years</u>
1st year	32,916	918,235
2nd year	122,711	1,008,030
3rd year	218,016	1,103,335
4th year	319,170	1,204,489
5th year	426,530	1,311,849
6th year	540,479	1,425,798
7th year	661,420	1,546,739
8th year	789,782	1,675,101
9th year	926,021	1,811,341
10th year	1,070,621	1,955,940
11th year	1,224,093	2,109,412
12th year	1,386,983	2,272,302
13th year	1,559,868	2,445,188
14th year	1,743,363	2,628,682
15th year	1,938,117	2,823,436
16th year	2,144,822	3,030,141
17th year	2,364,211	3,249,530
18th year	2,597,063	3,482,382
19th year	2,844,203	3,729,522
20th year	3,106,509	3,991,828
21st year	3,224,352	
22nd year	3,081,830	
23rd year	2,930,563	
24th year	2,770,013	
25th year	2,599,612	
26th year	2,418,754	
27th year	2,226,797	
28th year	2,023,062	
29th year	1,806,825	
30th year	1,577,318	
31st year	1,333,729	
32nd year	1,075,192	
33rd year	800,790	
34th year	509,549	
35th year	200,438	
	54,595,720	43,723,280

Assumes Interest Rate of 6.0%

MEMORANDUM

TO: Allen Anderson, South Kentucky RECC
Tony Overbey, Fleming-Mason Energy

FROM: Roy M. Palk *Roy M. Palk*

SUBJECT: Wholesale Power Contract, Amendment Thereto

DATE: June 27, 2003 *file*

As discussed during our telephone conversation on Thursday afternoon, and at your request, I wanted to clarify certain matters relating to the proposed Amendment in an effort to have these issues resolved before our meeting next Wednesday with the RUS Administrator:

1. The first question we discussed was exclusion from the all-requirements provisions for new loads not in your present service territory, and our question dealt with whether this would apply to new loads or acquisitions of service territory from other EKPC member owners. In this regard, we would suggest the following language which appears in paragraph 1. General about midway down in that paragraph. "...after the date of this Agreement not in the Member's present service territory or in the territory of any other member owner of Seller.
2. We also discussed clarification of exclusion up to five percent of EKPC's demand and I believe we recognized that it might be appropriate to use, as was done in the Great Rivers contract, the concept of a rolling three years average. Therefore, for purposes of clarification, we suggest changing language appearing in the first full paragraph on page 2, to read as follows, "...from facilities owned or leased by the Member provided that the aggregate amount of all members' elections (measured in megawatts in any hour) so obtained under this paragraph shall not exceed five percent (5%) of the Seller's average coincident peak demand for each calendar month occurring during the 36 months immediately preceding the Members' election provided herein. . .and further provided that no Member shall receive more than ten percent (10%) of its average peak demand for each calendar month occurring during the 36 months immediately preceding the Members' election as provided for herein."

3. We also discussed whether the 30 days notice to return to the all-requirements contract was sufficient, and in this regard, also felt that language in the Great Rivers contract was appropriate. Therefore, we propose the following language which would appear also on page 2 midway down in the first full paragraph to read as follows, ^①Any such election shall continue until Member gives Seller notice of cancellation of any such election, in which event, the Member may return to having its purchase and Seller's sale obligations governed by the all-requirements obligation only upon terms and conditions mutually satisfactory to the Member and Seller, each acting in its sole discretion.

*exercised
for under
this advertisement*

4. We also had a question about paragraph 10. Retail Competition and wondered whether this might present anti-trust issues going forward. In this regard, we will defer to your outside counsel's opinion on this matter, but did think it was appropriate to raise it.

I hope that we can find agreement on these issues so that we can be unified during our meeting next Wednesday. Please let me hear from you as soon as possible.

rmp/lm

bc: Dave Eames
Frank Oliva
Bill Bosta
Charlie Lile

MEMORANDUM

TO: Board of Directors and Member System Presidents & CEOs
FROM: Roy Palk
DATE: August 6, 2003
SUBJECT: Wholesale Power Contract Amendment

RUS has informed me that they will approve the Gilbert Loan in this fiscal year subject to the membership and EKPC extending the Wholesale Power Contract. Currently, EKPC has a draft amendment at the Office of General Counsel ("OGC") that it feels will meet the needs of all 17 organizations. We hope to have their input shortly.

It is recommended that each of you consider following the Blue Grass model where their board has authorized their President and CEO and Chairman to sign the Wholesale Power Contract Amendment. We would also recommend that we consider the same authorization for EKPC's President & CEO and Chairman.

We will discuss this further at the August Board meeting.

dge/dd
c: Dale Henley



WPC

MEMORANDUM

TO: Board of Directors
Member System Managers

FROM: Roy M. Palk *Roy*

DATE: September 4, 2003

SUBJECT: RUS' Comments Regarding Amendment of the
Wholesale Power Contract

1. Attached are RUS' latest comments received yesterday, September 3, 2003. In general, the comments are intended to demonstrate that RUS is willing to allow "greater flexibility" to EKPC member-owners than it has allowed to any other G&T system.
2. The letter makes the following important points:
 - a. Member-owners will be allowed to purchase non-EKPC sources to serve loads not to exceed 15% of the member's 3-year rolling average peak, including distributed generation;
 - b. the cap on the total non-EKPC sources to not exceed 5% of the 3-year rolling average system peak;
 - c. recognition that when a new load transfers into EKPC, the member again has the opportunity to acquire additional loads not to exceed the 15% limit; and
 - d. recognition that if a member can acquire a single new load that would exceed its 15% limit in total, then RUS would be willing to consider an exception on a case by case basis.
3. May I suggest that we come prepared to discuss this matter next Tuesday.

UNITED STATES DEPARTMENT OF AGRICULTURE
RURAL UTILITIES SERVICE
ELECTRIC PROGRAM
1400 INDEPENDENCE AVENUE, S.W.
ROOM 0270-SOUTH, STOP 1568
WASHINGTON, DC 20250



Fax

To: Roy Palk	From: Victor Vu	
Fax: 959-744-6008	Pages: 3	Includes cover sheet
Phone:	Date: 9/3/03	
Re:		
CC:		
<input checked="" type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle		

• **Comments:**

Roy,
 Attached is a letter summarizing our position following our last phone conversation.
 Victor

September 3, 2003

DRAFT

Mr. Roy M. Palk
President and Chief Executive Officer
East Kentucky Power Cooperative
P.O. Box 707
Winchester, KY 40392-0707

Dear Roy:

To follow up on our discussion by phone with you and Dave Eames on August 28 regarding the Wholesale Power Contract, I will summarize RUS' position.

- 1 (a). Provide evidence in the New Load Purchase Agreement that the acquired new service territory or municipal loads must be served by the current power supplier as a condition of the new load acquisition.

This is acceptable to EKPC.

- 1 (b). Provide evidence that the cost of power for this new load from the existing power supplier is less than or equal to the cost of power from East Kentucky.

Deleted by RUS.

2. The 10% maximum limitation of Member load and the 5 % maximum limitation of East Kentucky's load set forth in Section 1 of this agreement include load served by Member owned Distributed Generation (DG) and the new service territory or municipal loads.

This was changed to increase the 10% allowance for members to purchase from non-EKPC sources to 15%, but still maintains the not to exceed 5% of EKPC's 3-year rolling average system peak. This is inclusive of member Distributed Generation. EKPC asked if the 5% G&T level could be raised to 10% to accommodate the possibility of multiple members with new territories and new municipal loads in which the aggregate of new loads could exceed the 5% G&T level. After careful consideration, RUS holds firm to the 15% member level and 5% G&T level. RUS is already giving EKPC members greater flexibility by allowing the member to enter into power purchase contract(s) from suppliers other than EKPC to serve new territory(ies) and new municipal loads not to exceed in total 15% of the member's 3-year rolling average peak. RUS has only allowed other G&Ts' members 5%.

In reaching our decision, RUS examined the loan security issue from a program-wide view and the risks associated with allowing a distribution member to stray from the all-requirements wholesale power contract with the G&T. RUS considered the precedent-setting decision being made, the impact it may cause with other G&Ts and their members, and the effect it may have on the entire Program. RUS understands

distribution members wanting flexibility to seek opportunities for growth. However, RUS must ensure that our loan security in the G&T program is not significantly decreased. EKPC and its members have maintained a good working relationship with RUS, so to show our flexibility, RUS is allowing EKPC members to purchase non-EKPC sources to serve loads not to exceed 15% of the member 3-year rolling average peak. However, we must limit the risks to EKPC by placing a cap on the total non-EKPC sources to not exceed 5% of the 3-year rolling average system peak.

RUS would like to clarify that the member has a rolling allowance of 15%, i.e. when a new load transfers into EKPC, the member again has the opportunity to acquire additional loads not to exceed the 15% limit.

3. The Member may elect East Kentucky to be the power supplier for these new loads upon Member giving East Kentucky an advance 24 month notice of such election. Any such election will only be upon terms and conditions mutually satisfactory to the Member and East Kentucky, each acting in its sole discretion. (RUS shall be notified of such election by the Member)

RUS agrees to accept EKPC's offer that loads coming onto EKPC's system from members, originating from non-EKPC service, of 5 MW or less shall require a 90-day notice, but loads of greater than 5MW shall require a 12-month notice. RUS shall be notified of such notice by EKPC and/or the member.

4. Once the new load is transferred to be served by East Kentucky, Member will not be allowed to switch the load to another power supplier.

This is acceptable to EKPC.

Note that in the event a member can acquire a single new load that would exceed their 15% limit in total, then that member and EKPC can enter into discussions with RUS. RUS would consider requests for such exception on a case-by-case basis. This can be conveyed in the letter to EKPC upon approval of the amendment. Additionally, any load served by non-EKPC sources can experience normal growth that exceeds the member's 15% limit. In this case, the member will not be eligible for further loads using non-EKPC sources nor can any other member attain new loads using non-EKPC sources if the 5% G&T limit has been reached or exceeded.

If the above are acceptable to EKPC and its members, RUS ask EKPC to draft the new contract with these revisions. Also, RUS proposes to add language for joint & several liabilities in the amendment. RUS will provide the language to EKPC under separate cover.

Sincerely,

Victor T. Vu
Director, Power Supply Division
Rural Utilities Service



FLEMING-MASON ENERGY
COOPERATIVE, INC.

P.O. BOX 328 • FLEMINGSBURG, KENTUCKY 41041 • (606) 845-2661 • FAX (606) 845-1008

Dave Eames, Dale Henley
SK Requests 29 & 31
Page 254 of 926

WPC

September 5, 2003

Mr. Roy Palk, President and CEO
East Kentucky Power
P O Box 707
Winchester Kentucky 40392-0707

Dear Roy:

At our regular Board of Directors meeting today we discussed the comments made by RUS in their communication to David Eames dated August 12, 2003.

Specifically, we cannot sign any amendment to our Wholesale Power Contract if it contains language "specifying that the Member cannot acquire new service territory or municipal loads unless the member: (a) includes provisions in any New Load Purchase Agreement that the acquired new service territory must be served by the current power supplier (EKP) as a condition of the new load acquisitions.

RUS is asking that we extend the present contract to the year 2041 and we are not willing to limit our ability to acquire new territory and serve persons in rural areas at their request with the restraints suggested by RUS.

We have adequately described situations that are or may be available for acquisitions that would require the continuation of their power supplier for a period of years before we could switch them to EKP. To require these future prospects to breach their contracts before their expiration dates virtually eliminates our growth in these areas.

The bottom line is, if RUS continues to insist on these stringent conditions, we still will not sign any amendment to our present Wholesale Power Contract. We are so close to an agreement, I hope this does not terminate our proposed amendment.

Sincerely,

Anthony P. Overbey, President and CEO

SEP - 8 2003

WPC

MEMORANDUM

TO: Member System Managers

FROM: Roy M. Palk

SUBJECT: Update Meeting Regarding Wholesale Power Contract

DATE: September 25, 2003

Earlier today, I contacted each of you regarding a called meeting for Monday, September 29, in Winchester to discuss the latest efforts on extension of the Wholesale Power Contract (WPC). I realize this is very short notice, but to put this request into some time frame, I am needing to discuss a possibly acceptable proposal that may be agreeable to Fleming-Mason Energy (FM), South Kentucky RECC (SK), EKPC and RUS. This proposal was arrived at yesterday afternoon and we are moving this topic of the amendment number three to the EKPC board agenda for action on October 14. Thus, there is a need to move a lot of information to a lot of people within a very short time period.

The following is a chronology of events leading up to this request. As you will recall, RUS's final position on extending the WPC was discussed at our September board meeting. In summary, RUS's final position includes the following:

1. territory or load acquired outside of a distributor's present service area will require the EKPC member cooperative to honor the terms of the power supply contract then serving that load;
2. the total load acquired outside of the present co-op service area cannot exceed 15% of the member co-op's 3-year rolling average peak and all the 16 members' loads collectively cannot exceed 5% of EKPC's 3-year rolling average system peak, including distributed generation (allocation method to be developed and agreed to among EKPC member systems);

Note: RUS has agreed, by their transmittal letter, to consider other opportunities beyond these percentages on a case-by-case basis.

3. loads acquired from areas outside the distribution co-op's service area and brought to the EKPC system for power supply will require a 90-day notice to EKPC for loads under 5MW. For loads over 5MW the notice period will not be less than 18 months;
4. once the election to place newly acquired loads onto the EKPC system, that election is irrevocable.

Point number 2, previously stated, is the most troubling point to both FM and SK. In an attempt to reach a consensus, I requested the EKPC Operations, Services and Support Committee and the EKPC Board not to take action at the September board meeting and to postpone any action until the October board meeting. During the ensuing period since the September board meeting, several suggestions have been made to move this matter toward a consensus. Those, boiled down, are eight in number, and are as follows:

1. investigate what the current EKPC by-laws say regarding a matter such as extending the WPC;
2. consider a split amortization schedule for the Gilbert loan whereby FM's and SK's loads, as a percentage of EKPC's total load, are allocated to the loan amount and amortized between now and 2025, the expiration date of the current WPC, and amortize the balance of the loans from now through 2041, the new extension period;
3. investigate whether the current WPC is, indeed, self-expiring or is renewable unless either party, distributor member or EKPC, gives notice to the other;
4. develop methods for allocating the 5%/15% in an equitable and practical manner;
5. review any further submittals from Don Howell, SK's and FM's outside counsel;
6. place case-by-case language into the WPC and develop guidelines to remove as much ambiguity as possible;
7. sign the extension of the WPC containing the four RUS provisions, amendment #3, with the understanding that, within a reasonable timeframe, all members would have the option of converting to a partial requirements contract;
8. proportion the liability, similar to #2, but on the approach that FM and SK each obtain their portion of the Gilbert loan and re-lend those amounts to EKPC.

A conference call was held yesterday afternoon with RUS. Participating in the call were, from RUS – Victor Vu and John Chung; from South Kentucky – Allen Anderson; Tony Overbey was on vacation; and from EKPC – myself, Dale Henley and Dave Eames. The phone call lasted approximately one hour and all eight points previously stated were discussed.

The conclusion of the call is that all parties to the call think that point number seven, sign on now with the RUS conditions included, and begin efforts to create a partial requirements contract conversion option for all members, within 24 months. Dale Henley and Dave Eames have included an explanation of what the resolution language means.

Enclosed, herewith, are their language explanation, amendment #3 to the current WPC and the board proposed resolution, which the EKPC board will be asked to approve at the

October board meeting. Thus, my need and desire to meet with you and answer any questions you may have.

**Explanation of the Partial Requirements Language
Contained Within the EKPC Board Resolution**

One of the items we discussed is a partial requirements contract, which RUS has agreed to work on over the next 24 months. The board resolution makes reference to this commitment by both RUS and EKPC for member-owners wishing to convert their wholesale power contract, as amended, to a partial requirements contract.

The board resolution commits EKPC to working with member-owners toward converting their wholesale power contract, as amended, to a partial requirements contract. When a partial requirements contract has been successfully negotiated, each member-owner will have an opportunity to vote on it, and may elect to use it.

In simple terms, I understand that a partial requirements contract has the effect of permanently fixing, or capping a member-owner's obligation to purchase its electric power and energy from the G&T at an agreed time. Thereafter, neither party is obligated to sell or buy beyond the capped amount. The capped amount is generally based upon historic usage over an agreed-upon period of time.

AMENDMENT NO. 3 TO WHOLESALE POWER CONTRACT
BETWEEN EAST KENTUCKY POWER COOPERATIVE, INC. AND

This Agreement dated the _____ day of _____, 2003, amends the Wholesale Power Contract dated October 1, 1964 between East Kentucky Power Cooperative, Inc. (hereinafter "Seller") and _____ (hereinafter "Member") as follows:

I. Numerical Section 1 of the Wholesale Power Contract shall be amended and restated to read in its entirety as follows:

1. General - The Seller shall sell and deliver to the Member and the Member shall purchase and receive from the Seller all electric power and energy which shall be required to serve the Member's load, including all electric power and energy required for the operation of the Member's system. Notwithstanding the foregoing, the Member shall have the option, from time to time, with notice to the Seller, to receive electric power and energy, from persons other than the Seller, or from facilities owned or leased by the Member, provided that the aggregate amount of all members' elections (measured in megawatts in 15-minute intervals) so obtained under this paragraph shall not exceed five percent (5%) of the rolling average of Seller's coincident peak demand for the single calendar month with the highest peak demand occurring during each of the 3 twelve month periods immediately preceding any election by the Member from time to time, as provided herein and further provided that no Member shall receive more than fifteen percent (15%) of the rolling average of its coincident peak demand for the single calendar month with the highest average peak demand occurring during each of the 3 twelve

month periods immediately preceding any election by the Member from time to time, as provided herein.

For any election made or cancelled under this Section, the following provisions shall apply:

a. During any calendar year, the Member may make or cancel any such election or elections by giving at least 90 days' notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or less, in the annual aggregate.

b. During any calendar year, the Member may make or cancel any such election or elections by giving at least 18 months or greater notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or more, in the annual aggregate

Upon the effective date of the Member's cancellation of any such election under this Agreement, the load or loads shall be governed by the all requirements obligations of the Seller and the Member in this Section, and notice of same shall be provided to the Rural Utilities Service ("RUS") by the member. Such loads which are transferred to Seller's all-requirements obligations shall not thereafter be switched by Member to a different power supplier.

c. Should any such election by Member involve the acquisition of new service territory currently served by another power supplier or municipal utility, Member shall provide evidence to Seller and RUS in the new Load Purchase Agreement that the acquired territory must be served by the current power supplier as a condition of the acquisition of the new load.

Seller will provide transmission, substation, and ancillary services without

discrimination or adverse distinction with regard to rates, terms of service or availability of such service as between power supplies under paragraphs above and Member will pay charges therefore to Seller. Seller also agrees to allow, at Member's sole cost and expense, such additional interconnection as may be reasonably required to provide such capacity and energy as contemplated in the above paragraphs.

Member will be solely responsible for all additional cost associated with the exercise of elections under the above paragraphs including but not limited to administrative, scheduling, transmission tariff and any penalties, charges and costs, imposed by the Midwest Independent System Operator ("MISO") or other authorities.

II. Section 10 of the Wholesale Power Contract shall be restated as Section 11 and new Section 10 and Section 11 shall read in their entirety as follows:

10. Retail Competition - Seller and its subsidiaries, shall not, during the term of this contract, without the consent of the Member, (i) sell or offer to sell electric power or energy at retail within the Member's assigned or expanded geographic area, if any, established by applicable laws or regulations or (ii) provide or offer to provide retail electric service to any person which is a customer of the Member.

11. Term – This Agreement shall become effective only upon approval in writing by the Administrator and shall remain in effect until January 1, 2041, and thereafter until terminated by either party's giving to the other not less than six months' written notice of its intention to terminate. Subject to the provisions of Section 1 hereof, service hereunder and the obligation of the Member to pay therefore shall commence upon completion of the facilities necessary to provide service.

Executed the day and year first above mentioned.

EAST KENTUCKY POWER
COOPERATIVE, INC.

BY: _____

ITS: _____

ATTEST, SECRETARY

BY: _____

ITS: _____

ATTEST, SECRETARY

(H:Legal/misc/amend-3-wpc)

Board Agenda Item

OCTOBER

TO: Operations, Services & Support and Board of Directors

FROM: Roy M. Palk

DATE: August 29, 2003

SUBJECT: Wholesale Power Contract Amendment No. 3

KEY MEASURE(S) Competitively Priced Energy

Background

On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners. On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000.

RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") by each of the member-owners through 2041. RUS has also indicated that it would consider modifications to the WPC to permit some flexibility to member-owners under their present obligation to secure all of their system power supply needs from EKPC.

Justification and Strategic Analysis

RUS financing is the least cost option for Gilbert. As a condition for making the loan, RUS requires that EKPC and its member-owners extend the WPC through 2041. Extension of the WPC, with acceptable modifications, assures the financial support of the member-owners for EKPC's operations. Extension of the WPC, in turn, is relied upon by RUS to ensure that its loan is adequately secured. Thus, the extension through 2041 is intended to cover the period of the loan repayment and, provides assurance that the member-owners will have an adequate source of competitively priced dependable wholesale power with which to generate retail sales that will provide the primary source of revenue to EKPC for repaying the Gilbert loan, and their own obligations to RUS.

Board Agenda Item

OCTOBER

This amendment also provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC. RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis, and to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months.

Recommendation

Management recommends that the Board approve Amendment No. 3 to the WPC and requests that each of the member systems have its board of directors approve it at their next meeting.

rmp/lm

Resolution

OCTOBER

WHOLESALE POWER CONTRACT AMENDMENT NO. 3

Whereas, On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners;

Whereas, On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000;

Whereas, RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") through 2041;

Whereas, The proposed amendment provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC;

Whereas, RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis; to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract with 24 months;

Whereas, RUS financing is the least cost option for Gilbert; and

Whereas, Management and the Operations, Services and Support Committee recommend approval; now, therefore, be it

Resolved, That the EKPC Board approves Amendment No. 3 to the WPC, as attached, subject to RUS review and approval;

Resolved, That the EKPC Board commits to making every effort to work with member-owners and RUS to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months; and

Resolved, That the EKPC Board requests that each of its member-owner cooperatives approve and execute Amendment No. 3 at their next board meeting.

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, October 14, 2003, at 12:20 p. m., EDT, the following business was transacted:

After review of the applicable information, a motion was made by Fred Brown, seconded by Wayne Stratton, and, there being no further discussion and upon the Chairman's request for a roll-call vote, with the following Directors voting "yes:" Michael Adams, Fred Brown, Donnie Crum, P. D. Depp, Daniel Divine, E. A. Gilbert, Virgil "Jack" Ginter, Jimmy Longmire, C. F. Martin, Wade May, Sam Penn, A. L. Rosenberger, Wayne Stratton, and Delno Tolliver; and the following Directors voting "no:" Rick Stephens and Lonnie Vice; the following motion was passed with 14 "yes" votes and 2 "no" votes:

Whereas, On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners;

Whereas, On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000;

Whereas, RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") through 2041;

Whereas, The proposed amendment provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC;

Whereas, RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis; to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract with 24 months;

Whereas, RUS financing is the least cost option for Gilbert; and

Whereas, Management and the Operations, Services and Support Committee recommend approval; now, therefore, be it


Resolved, That the EKPC Board approves Amendment No. 3 to the WPC, as attached, subject to RUS review and approval;

Resolved, That the EKPC Board commits to making every effort to work with member-owners and RUS to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months; and

Resolved, That the EKPC Board requests that each of its member-owner cooperatives approve and execute Amendment No. 3 at their next board meeting.

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 14th day of October, 2003.


Sam Penn, Secretary

Corporate Seal

AMENDMENT NO. 3 TO WHOLESALE POWER CONTRACT
BETWEEN EAST KENTUCKY POWER COOPERATIVE, INC. AND

This Agreement dated the _____ day of _____, 2003, amends the Wholesale Power Contract dated October 1, 1964 between East Kentucky Power Cooperative, Inc. (hereinafter "Seller") and _____ (hereinafter "Member") as follows:

I. Numerical Section 1 of the Wholesale Power Contract shall be amended and restated to read in its entirety as follows:

1. General - The Seller shall sell and deliver to the Member and the Member shall purchase and receive from the Seller all electric power and energy which shall be required to serve the Member's load, including all electric power and energy required for the operation of the Member's system. Notwithstanding the foregoing, the Member shall have the option, from time to time, with notice to the Seller, to receive electric power and energy, from persons other than the Seller, or from facilities owned or leased by the Member, provided that the aggregate amount of all members' elections (measured in megawatts in 15-minute intervals) so obtained under this paragraph shall not exceed five percent (5%) of the rolling average of Seller's coincident peak demand for the single calendar month with the highest peak demand occurring during each of the 3 twelve month periods immediately preceding any election by the Member from time to time, as provided herein and further provided that no Member shall receive more than fifteen percent (15%) of the rolling average of its coincident peak demand for the single calendar month with the highest average peak demand occurring during each of the 3 twelve

month periods immediately preceding any election by the Member from time to time, as provided herein.

For any election made or cancelled under this Section, the following provisions shall apply:

a. During any calendar year, the Member may make or cancel any such election or elections by giving at least 90 days' notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or less, in the annual aggregate.

b. During any calendar year, the Member may make or cancel any such election or elections by giving at least 18 months or greater notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or more, in the annual aggregate

Upon the effective date of the Member's cancellation of any such election under this Agreement, the load or loads shall be governed by the all requirements obligations of the Seller and the Member in this Section, and notice of same shall be provided to the Rural Utilities Service ("RUS") by the member. Such loads which are transferred to Seller's all-requirements obligations shall not thereafter be switched by Member to a different power supplier.

c. Should any such election by Member involve the acquisition of new service territory currently served by another power supplier or municipal utility, Member shall provide evidence to Seller and RUS in the new Load Purchase Agreement that the acquired territory must be served by the current power supplier as a condition of the acquisition of the new load.

Seller will provide transmission, substation, and ancillary services without

discrimination or adverse distinction with regard to rates, terms of service or availability of such service as between power supplies under paragraphs above and Member will pay charges therefore to Seller. Seller also agrees to allow, at Member's sole cost and expense, such additional interconnection as may be reasonably required to provide such capacity and energy as contemplated in the above paragraphs.

Member will be solely responsible for all additional cost associated with the exercise of elections under the above paragraphs including but not limited to administrative, scheduling, transmission tariff and any penalties, charges and costs, imposed by the Midwest Independent System Operator ("MISO") or other authorities.

II. Section 10 of the Wholesale Power Contract shall be restated as Section 11 and new Section 10 and Section 11 shall read in their entirety as follows:

10. Retail Competition - Seller and its subsidiaries, shall not, during the term of this contract, without the consent of the Member, (i) sell or offer to sell electric power or energy at retail within the Member's assigned or expanded geographic area, if any, established by applicable laws or regulations or (ii) provide or offer to provide retail electric service to any person which is a customer of the Member.

11. Term – This Agreement shall become effective only upon approval in writing by the Administrator and shall remain in effect until January 1, 2041, and thereafter until terminated by either party's giving to the other not less than six months' written notice of its intention to terminate. Subject to the provisions of Section 1 hereof, service hereunder and the obligation of the Member to pay therefore shall commence upon completion of the facilities necessary to provide service.

Executed the day and year first above mentioned.

EKPC Board Minutes for 10/14/2003

Attachment A, Page 4 of 4

EAST KENTUCKY POWER
COOPERATIVE, INC.

BY: _____

ITS: _____

ATTEST, SECRETARY

BY: _____

ITS: _____

ATTEST, SECRETARY

(H:Legal/misc/amend-3-wpc)

Board Agenda Item

OCTOBER

TO: Operations, Services & Support Committee and Board of Directors

FROM: Roy M. Palk *Roy M. Palk*

DATE: October 3, 2003

SUBJECT: Wholesale Power Contract Amendment No. 3

KEY MEASURE(S) Competitively Priced Energy

Background

On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners. On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000.

RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") by each of the member-owners through 2041. RUS has also indicated that it would consider modifications to the WPC to permit some flexibility to member-owners under their present obligation to secure all of their system power supply needs from EKPC.

Justification and Strategic Analysis

RUS financing is the least cost option for Gilbert. As a condition for making the loan, RUS requires that EKPC and its member-owners extend the WPC through 2041. Extension of the WPC, with acceptable modifications, assures the financial support of the member-owners for EKPC's operations. Extension of the WPC, in turn, is relied upon by RUS to ensure that its loan is adequately secured. Thus, the extension through 2041 is intended to cover the period of the loan repayment and, provides assurance that the member-owners will have an adequate source of competitively priced dependable wholesale power with which to generate retail sales that will provide the primary source of revenue to EKPC for repaying the Gilbert loan, and their own obligations to RUS.

Board Agenda Item

OCTOBER

This amendment also provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC. RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis, and to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months.

Recommendation

Management recommends that the Board approve Amendment No. 3 to the WPC and requests that each of the member systems have its board of directors approve it at their next meeting.

rmp/lm

Resolution

OCTOBER

WHOLESALE POWER CONTRACT AMENDMENT NO. 3

Whereas, On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners;

Whereas, On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to \$434,000,000;

Whereas, RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") through 2041;

Whereas, The proposed amendment provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC;

Whereas, RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis; to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract with 24 months;

Whereas, RUS financing is the least cost option for Gilbert; and

Whereas, Management and the Operations, Services and Support Committee recommend approval; now, therefore, be it

Resolved, That the EKPC Board approves Amendment No. 3 to the WPC, as attached, subject to RUS review and approval;

Resolved, That the EKPC Board commits to making every effort to work with member-owners and RUS to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months; and

Resolved, That the EKPC Board requests that each of its member-owner cooperatives approve and execute Amendment No. 3 at their next board meeting.

AMENDMENT NO. 3 TO WHOLESALE POWER CONTRACT
BETWEEN EAST KENTUCKY POWER COOPERATIVE, INC. AND

This Agreement dated the _____ day of _____, 2003, amends the Wholesale Power Contract dated October 1, 1964 between East Kentucky Power Cooperative, Inc. (hereinafter "Seller") and _____ (hereinafter "Member") as follows:

I. Numerical Section 1 of the Wholesale Power Contract shall be amended and restated to read in its entirety as follows:

1. General - The Seller shall sell and deliver to the Member and the Member shall purchase and receive from the Seller all electric power and energy which shall be required to serve the Member's load, including all electric power and energy required for the operation of the Member's system. Notwithstanding the foregoing, the Member shall have the option, from time to time, with notice to the Seller, to receive electric power and energy, from persons other than the Seller, or from facilities owned or leased by the Member, provided that the aggregate amount of all members' elections (measured in megawatts in 15-minute intervals) so obtained under this paragraph shall not exceed five percent (5%) of the rolling average of Seller's coincident peak demand for the single calendar month with the highest peak demand occurring during each of the 3 twelve month periods immediately preceding any election by the Member from time to time, as provided herein and further provided that no Member shall receive more than fifteen percent (15%) of the rolling average of its coincident peak demand for the single calendar month with the highest average peak demand occurring during each of the 3 twelve

month periods immediately preceding any election by the Member from time to time, as provided herein.

For any election made or cancelled under this Section, the following provisions shall apply:

a. During any calendar year, the Member may make or cancel any such election or elections by giving at least 90 days' notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or less, in the annual aggregate.

b. During any calendar year, the Member may make or cancel any such election or elections by giving at least 18 months or greater notice to the Seller with respect to any load or loads with an average coincident peak demand (calculated in the same manner as provided in the preceding paragraph) of 5.0 Megawatts or more, in the annual aggregate

Upon the effective date of the Member's cancellation of any such election under this Agreement, the load or loads shall be governed by the all requirements obligations of the Seller and the Member in this Section, and notice of same shall be provided to the Rural Utilities Service ("RUS") by the member. Such loads which are transferred to Seller's all-requirements obligations shall not thereafter be switched by Member to a different power supplier.

c. Should any such election by Member involve the acquisition of new service territory currently served by another power supplier or municipal utility, Member shall provide evidence to Seller and RUS in the new Load Purchase Agreement that the acquired territory must be served by the current power supplier as a condition of the acquisition of the new load.

Seller will provide transmission, substation, and ancillary services without

discrimination or adverse distinction with regard to rates, terms of service or availability of such service as between power supplies under paragraphs above and Member will pay charges therefore to Seller. Seller also agrees to allow, at Member's sole cost and expense, such additional interconnection as may be reasonably required to provide such capacity and energy as contemplated in the above paragraphs.

Member will be solely responsible for all additional cost associated with the exercise of elections under the above paragraphs including but not limited to administrative, scheduling, transmission tariff and any penalties, charges and costs, imposed by the Midwest Independent System Operator ("MISO") or other authorities.

II. Section 10 of the Wholesale Power Contract shall be restated as Section 11 and new Section 10 and Section 11 shall read in their entirety as follows:

10. Retail Competition - Seller and its subsidiaries, shall not, during the term of this contract, without the consent of the Member, (i) sell or offer to sell electric power or energy at retail within the Member's assigned or expanded geographic area, if any, established by applicable laws or regulations or (ii) provide or offer to provide retail electric service to any person which is a customer of the Member.

11. Term – This Agreement shall become effective only upon approval in writing by the Administrator and shall remain in effect until January 1, 2041, and thereafter until terminated by either party's giving to the other not less than six months' written notice of its intention to terminate. Subject to the provisions of Section 1 hereof, service hereunder and the obligation of the Member to pay therefore shall commence upon completion of the facilities necessary to provide service.

Executed the day and year first above mentioned.

EAST KENTUCKY POWER
COOPERATIVE, INC.

BY: _____

ITS: _____

ATTEST, SECRETARY

BY: _____

ITS: _____

ATTEST, SECRETARY

(H:Legal/misc/amend-3-wpc)

WPC file

David Eames

From: Roy Palk
Sent: Wednesday, October 22, 2003 9:56 AM
To: Dale Henley; Ron Brown; Gary Crawford; Doug Oliver; Claudia Embs; David Eames; Barry Mayfield; Randy Dials; Paul Atchison
Subject: FW: Clarify RUS' Position

-----Original Message-----

From: Vu, Victor -RUS [mailto:vtvu@RUS.usda.gov]
Sent: Fri 10/17/2003 4:16 PM
To: 'eaanderson@skrecc.com'; 'apoberbey@fmenergy.net'
Cc: Roy Palk; 'mike.norman@usda.gov'; Moy, Wei -RUS; Cheung, John -RUS
Subject: Clarify RUS' Position

Gentlemen,

Following our conference call on 10/14/03, I want to clarify RUS' position on the issue of member(s) acquiring new service areas that will be served by non-EKPC resources. RUS still maintains the official position of limiting each member's new service area using non-EKPC resources to 15% of the member's peak load and in aggregate no more than 5% of the G&T's peak load. However, on a case-by-case basis, a member may request acquiring a new service area that would place the member above the 15% limit. If the new acquisition would not cause great risks to the member and the G&T, RUS would consider such a request. RUS had said that once approval is given (by RUS and EKPC) for an acquisition that would place a member above the 15% limit, that member cannot acquire additional service areas until some of the non-EKPC load is replaced by EKPC resources which would bring the non-EKPC load below the 15% limit.

With that said, RUS had further discussions on this topic and now proposes the following. On a case-by-case basis, a member may request additional service areas that would place the member above the 15% limit as long as the 5% limit at the G&T level will not be exceeded. (No cap on the number of additional service areas as long as the 5% G&T limit has not been exceeded) Hypothetically, one member can take the entire allotment up to 5% of the G&T's peak with approval from RUS and EKPC on a case-by-case basis.

EKPC and its members must be aware that under the existing wholesale power contract (WPC), there is only so much allowance to the all-requirements contract that RUS is willing to give and still maintain adequate security. If more allowance is needed, RUS suggests a partial-requirements contract. If EKPC and [some of] its members wish to negotiate a partial requirements contract, RUS will commit to start discussions in the latter half of 2004.

If you have any questions, please call me. Thank you.

Victor Vu
Director, Power Supply Division
Rural Utilities Service
Tel: 202-720-6436
Fax: 202-720-1401

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, December 9, 2003, at 9:30 a. m., EST, the following business was transacted:

After review of the applicable information, a motion was made by Fred Brown, seconded by Mike Adams, and, there being no further discussion, passed, with Rick Stephens and Lonnie Vice requesting that their "no" votes be recorded, to approve the following:

Whereas, The Rural Utilities Service ("RUS") has approved loan funds of \$433,863,000.00 for the Gilbert Generating Unit ("Gilbert") conditioned on extension of the Wholesale Power Contracts ("WPCs") through December 31, 2040 by all member-owners;

Whereas, This Board of Directors ("Board") approved Amendment No. 3 to the WPCs ("Amendment") at the October 2003 Board meeting, and regards same as a policy, rule or regulation for purposes of Section 1.04. Termination of Membership of EKPC's Bylaws;

Whereas, The Board officers have concluded that all member-owners must execute the Amendment not later than December 31, 2003, in order to protect this least-cost financing option offered by RUS; and

Whereas, The Board officers and the Operations, Services & Support Committee recommend that any member-owner failing to execute the Amendment by December 31, 2003, must indemnify, hold harmless and otherwise be responsible to East Kentucky Power Cooperative, Inc. ("EKPC") and other member-owners for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert; now, therefore, be it

Resolved, That the Board regards the Amendment as a policy, rule or regulation for purposes of By-Law interpretation;

Resolved, That all member-owners execute the Amendment by not later than December 31, 2003; and

Resolved, That any member-owner failing to execute the Amendment by December 31, 2003, shall indemnify, hold harmless and otherwise be responsible to EKPC, and other member-owners, for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert.

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 9th day of December, 2003.

A handwritten signature in cursive script that reads "Sam Penn". The signature is written in black ink and is positioned to the right of the witness text.

Sam Penn, Secretary

Corporate Seal

Board Agenda Item

DECEMBER

TO: Operations, Services & Support Committee and Board of Directors

FROM: Roy M. Palk *Roy M. Palk*

DATE: November 26, 2003

SUBJECT: Implementation of Wholesale Power Contract Amendment No. 3
(Executive Summary)

KEY MEASURE(S) Competitively Priced Energy

Background

On February 6, 2001, the East Kentucky Power Cooperative, Inc. ("EKPC") Board of Directors ("Board") approved construction of the 268 MW E.A. Gilbert Generating Unit ("Gilbert") at the Spurlock Power Station in Mason County, Kentucky, for purposes of securing an economical long-term source of wholesale power for EKPC's 16 member-owners. On August 14, 2001, the EKPC Board approved a loan filing with the Rural Utilities Service ("RUS") for \$410,000,000 to finance Gilbert and related transmission facilities; and on April 8, 2003, this loan application was amended to increase the amount to approximately \$434,000,000.

RUS has informed EKPC that its approval of the loan package is conditioned on extension of the Wholesale Power Contracts ("WPC") by each of the member-owners through December 31, 2040. RUS has also indicated that it would consider modifications to the WPC to permit some flexibility to member-owners under their present obligation to secure all of their system power supply needs from EKPC.

On October 14, 2003, the Board approved Amendment No. 3, and urged its execution by all member-owners at their next board meetings.

Justification and Strategic Analysis

RUS financing is the least cost option for Gilbert. As a condition for making the loan, RUS requires that EKPC and its member-owners extend the WPC through December 31, 2040. Extension of the WPC, with acceptable modifications, assures the financial support of the member-owners for EKPC's operations. Extension of the WPC, in turn, is relied upon by RUS to ensure that its loan is adequately secured. The extension is intended to cover the period of the loan repayment and, provides assurance that the member-owners

Board Agenda Item

DECEMBER

will have an adequate source of competitively priced dependable wholesale power with which to generate retail sales that will provide the primary source of revenue to EKPC for repaying the Gilbert loan, and their own obligations to RUS.

Amendment No. 3 also provides, for the first time, some flexibility to the member-owners' current obligation to secure all of their system power supply needs from EKPC. RUS has agreed to consider opportunities for member-owners outside the percentage limitations contained in Amendment No. 3 on a case-by-case basis, and to make every effort to work with member-owners and EKPC to convert any member-owner's WPC, as amended, to a partial requirements contract within 24 months.

At the November 2003 Board meeting, Vice Chairman Stratton outlined the need to have all member-owners execute Amendment No. 3 by December 31, 2003, and outlined the consequences in the event any member-owner declined to do so.

Recommendation

The Board officers recommend that the Board approve the attached resolution providing that the Amendment be regarded as a policy, rule or regulation for purposes of By-Law interpretation; that all member-owners execute the Amendment by not later than December 31, 2003; and that any member-owner failing to execute the Amendment by December 31, 2003, shall indemnify, hold harmless and otherwise be responsible to EKPC, and other member-owners, for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert.

rmp/lm

Resolution

DECEMBER

IMPLEMENTATION OF WHOLESALE POWER CONTRACT AMENDMENT NO. 3

Whereas, The Rural Utilities Service (“RUS”) has approved loan funds of \$433,863,000.00 for the Gilbert Generating Unit (“Gilbert”) conditioned on extension of the Wholesale Power Contracts (“WPCs”) through December 31, 2040 by all member-owners;

Whereas, This Board of Directors (“Board”) approved Amendment No. 3 to the WPCs (“Amendment”) at the October 2003 Board meeting, and regards same as a policy, rule or regulation for purposes of Section 1.04. Termination of Membership of EKPC’s Bylaws;

Whereas, The Board officers have concluded that all member-owners must execute the Amendment not later than December 31, 2003, in order to protect this least-cost financing option offered by RUS; and

Whereas, The Board officers and the Operations, Services & Support Committee recommend that any member-owner failing to execute the Amendment by December 31, 2003, must indemnify, hold harmless and otherwise be responsible to East Kentucky Power Cooperative, Inc. (“EKPC”) and other member-owners for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert; now, therefore, be it

Resolved, That the Board regards the Amendment as a policy, rule or regulation for purposes of By-Law interpretation;

Resolved, That all member-owners execute the Amendment by not later than December 31, 2003; and

Resolved, That any member-owner failing to execute the Amendment by December 31, 2003, shall indemnify, hold harmless and otherwise be responsible to EKPC, and other member-owners, for any additional cost associated with alternative financing to that presently offered by RUS for Gilbert.

**FROM THE MINUTE BOOK OF PROCEEDINGS
OF THE BOARD OF DIRECTORS OF
EAST KENTUCKY POWER COOPERATIVE, INC.**

At a regular meeting of the Board of Directors of East Kentucky Power Cooperative, Inc. held at the Headquarters Building, 4775 Lexington Road, located in Winchester, Kentucky, on Tuesday, January 6, 2004, at 12:25 p. m., EST, the following business was transacted:

Wholesale Power Contract Amendment No. 3—Letter of Commitment

Upon recommendation of management and the Operations, Services and Support Committee and after review and discussion of the applicable information, a motion was made by Jimmy Longmire, seconded by C. F. Martin, and, there being no further discussion, passed to approve the following:

By resolution, the EKPC Board of Directors authorizes the Chairman and CEO to issue a letter of commitment to each of the member-owners affirming the board resolution dated October 14, 2003, relating to Amendment No. 3 to the Wholesale Power Contract, with the letter reading as follows:

Dear Member CEO,

This letter will confirm EKPC's commitment as set forth by the EKPC Board in its Resolution of October 2003. EKPC will use every effort to successfully convert any member co-op's Wholesale Power Contract, as amended, to a partial requirements contract and jointly submit this contract to RUS for its approval within 24 months.

As a result of this process, one might anticipate that the Wholesale Power Contract, as amended, may ultimately be replaced by a partial requirements contract. Obviously this contract would be subject to the approval of the boards of both EKPC and the member co-op as well as RUS.

Additionally, if a member co-op first obtains all necessary approvals from RUS and other regulatory or governmental entities, EKPC will support the exclusion from the all requirements provisions of the Wholesale Power Contract any municipalities and/or entities that acquire and/or distribute power which have their own recognized territories which are located within the territorial boundaries of the member co-op as established by state law which have been served by the municipalities and/or entities since the territorial boundaries were established. This exclusion from the all requirements provisions of the Wholesale Power Contract shall be in addition to the

five percent-fifteen percent provisions of Amendment No. 3 to the Wholesale Power Contract, but otherwise subject to Paragraph (c) of Amendment Number 3.

These commitments are given by EKPC in consideration of all member co-ops' execution of Amendment Number 3 to the Wholesale Power Contract.

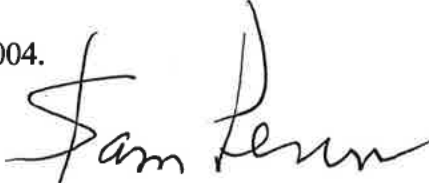
Very truly yours,

Roy M. Palk
President & CEO

Delno Tolliver
Chairman

The foregoing is a true and exact copy of a resolution passed at a meeting called pursuant to proper notice at which a quorum was present and which now appears in the Minute Book of Proceedings of the Board of Directors of the Cooperative, and said resolution has not been rescinded or modified.

Witness my hand and seal this 6th day of January, 2004.




Sam Penn, Secretary

Corporate Seal

*Wholesale
power
Contract
file*



NATIONAL RURAL UTILITIES COOPERATIVE FINANCE CORPORATION

A Touchstone Energy® Cooperative 

2201 Cooperative Way • Herndon, Virginia 20171-3025
www.nrucfc.org
703-709-6700

February 12, 2004

Administrator Hilda Gay Legg
Rural Utilities Service
U.S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250

Dear Hilda:

This is in response to our discussions concerning the requests that RUS has been receiving for approval of changes in the terms of wholesale power contracts between generation and transmission cooperatives (G&Ts) and their distribution members.

As we agreed at our November 25 meeting, we at CFC have examined the proposed changes to the wholesale power contract from a private financial market perspective. Our analysis has focused on the "commercially reasonable" question -- that is, whether and how any proposed changes to the wholesale power contract might increase the risk to lenders or bondholders and therefore affect the ability of a G&T to obtain financing or increase the cost of financing if obtained in private markets. We believe that the "commercially reasonable" test is appropriate. The goal is not to eliminate all risk. No lender can ever achieve that, and frankly if RUS and CFC were interested in lending only to AAA credits, there would be no need for either of our organizations. We both exist to fill a gap and to meet a need in rural America.

The standard all requirements wholesale power contract has been and will remain beneficial to the electric cooperative program. The heritage of the electric cooperatives has been one of taking very seriously an obligation to serve the most rural areas in a cost-effective manner and the standard contract has been an important component in enabling electric cooperatives to achieve that mission. However, we believe that the practical reality is that reasonable accommodations will need to be made to the standard contract form to recognize changes in the industry and market considerations. We also believe that these reasonable accommodations are fully consistent with the Mission of RUS as stated on www.usda.gov/rus: "To serve a leading role in improving the quality of life in rural America by administering its electric, telecommunications and water and waste programs in a service-oriented, forward-looking and financially responsible manner."

In the course of our analysis of this issue, we have conducted detailed reviews of the standard all requirements wholesale power contract and compared it with (1) the modified wholesale power contracts already approved by RUS; (2) pending requests from G&Ts for RUS approval of modifications to the terms of their wholesale power contracts; and (3) purchase power agreements outside of the electric cooperative sector that are generally prevalent in the market today, including contracts between municipal utilities and joint action agencies and "take or pay" contracts. In addition, we have had consultations with CFC's financial and legal partners concerning these issues and these entities have assisted us in this analysis. A letter from the major investment banking firm, Lehman Brothers, concerning these issues is attached.

Our first conclusion is that the form of the wholesale power contract that is used in the electric cooperative industry is, in many respects, unlike wholesale power contracts generally used as the basis for financing by other sectors of the electric utility industry. The primary and most common differences are as follows:

- **Obligation to Purchase All Requirements:** Most other contracts in the marketplace do not require a utility that provides retail distribution service to purchase all of its requirements from any one source. More typical is a contract provision under which the distribution utility agrees to purchase certain specified kWh and/or capacity amounts or to purchase certain percentage shares of the output of specific facilities.
- **Obligation to Supply All Requirements:** There are some contracts in the marketplace that require the provider of wholesale power to meet all of the requirements of a distribution utility. However, more typical are contract terms that simply obligate the wholesale provider to make available certain specified amounts or to provide certain shares of the output of specific facilities.

Modifications to the Standard Wholesale Power Contract

Since there are many wholesale power contracts in the marketplace that serve as the basis for financing that are different from the standard RUS all requirements wholesale power contract, it is clear that it is possible to make changes to the RUS wholesale power contract and remain consistent with a "commercially reasonable" approach. These changes could be accomplished in a manner that would not compromise loan security, or threaten the "financiability" of G&Ts or their distribution members. Some of these changes to the standard contract include modifications that have already been approved by RUS in the case of a small number of G&Ts.

The potential changes that we have identified are:

1. Incremental Subscription Provisions

"Incremental Subscription" provisions of a contract would permit distribution members of a G&T to purchase all or a portion of specified future requirements outside of their

wholesale power requirements contract with their G&T. In concept, there is nothing about this modification that impairs the “financiability” of a G&T, or threatens loan security, as long as the financial responsibilities of the members are clearly spelled out and accepted by participating members. In fact, RUS has already approved contracts that include such modifications in the case of a small number of G&Ts.

Under this approach a distribution cooperative would rely upon its G&T to provide its “baseline” requirements, and would enter into contracts under which it would “subscribe” for certain portions of its future needs. These “incremental subscription” contracts could be with the G&T that provides the “baseline” needs of the distribution system, or with third parties. A distribution system could, over time, enter into multiple “incremental subscription” contracts with the same G&T or with other parties. Once the “baseline” wholesale power contract has been amended to provide for such an “incremental subscription” approach, subsequent “incremental subscription” contracts would not necessitate any changes in the “baseline” contract between the G&T and its distribution members.

From a practical perspective, we think that in most cases, if a G&T is given the flexibility to enter into multiple contracts with a distribution member, those distribution members that select an “incremental subscription” approach will find themselves using the G&T that provides their “baseline” needs for most of their incremental needs as well. With this flexibility provided within a G&T, distribution cooperatives will be less likely to enter into “incremental subscription” contracts outside their G&T.

If a wholesale power contract is amended to permit an “Incremental Subscription” approach to future needs, the contract should include the following elements:

- the distribution member would have the same obligation with respect to the G&T’s capacity and other obligations (which existed at the time that the distribution cooperative exercised an option to meet its incremental needs outside of the all requirements contract with the G&T) as if it had remained a full requirements member of the G&T.
- in the event of a default by another member of the G&T, the distribution member would be obligated to pay its share of any shortfall caused by such a default with respect to the G&T’s capacity or other obligations (which existed at the time that the distribution cooperative exercised an option to meet its incremental needs outside of the all requirements contract with the G&T) as if it had remained a full requirements member of the G&T.
- the distribution member would not be directly obligated for the costs associated with future capacity of the G&T, for which it did not subscribe – subsequent to the “incremental subscription” option becoming effective for the distribution member. (There may be ongoing discussion concerning whether such a distribution cooperative would have any contingent liability for costs incurred by its G&T for capacity for which the distribution system did not subscribe. This contingent liability, if any, would only arise in the event that (a) one member that participates by subscribing for the additional capacity, fails to pay a G&T and

(b) the other participating members, all of which are jointly and severally responsible for the cost of the incremental capacity, all fail to honor their obligations to pay.)

In addition to modifications to the wholesale power contract, there are additional considerations for RUS and other lenders relating to the nature of the arrangements made by distribution systems for future power requirements outside of a standard all requirements contract with their G&T. Contracts for the provision of such incremental requirements should be carefully reviewed by the distribution members, and where required, approved by lenders, to ensure that risks are known and to the extent possible, minimized -- including market risk and counter party risk. Lenders have an interest in this matter by virtue of (a) the obligations of the member to the G&T under their "baseline" contract; and (b) the lender's exposure to the distribution cooperative that opted to obtain future needs outside of its standard all requirements contract with the G&T.

In a case where financing is requested for facilities under an "incremental subscription" approach, the standard requirements for such contracts would include "take or pay" provisions. "Joint and several" obligations would also be included in such contracts, unless the entity that is seeking such financing has a significant amount of equity, or other enhancements which would cause a "pro-rata" approach to be acceptable to the lender.

2. Mismatch Between the Financing Maturity Date and Wholesale Power Contract Termination Date

In some cases distribution cooperatives would like to sign a wholesale power contract with their G&T for a term that is shorter than the term of the financing being provided to the G&T by the lender.

This modification can be achieved in a manner that is commercially reasonable, but only with certain specific conditions.

- If a distribution member of a G&T requests the ability to enter into a wholesale power contract for a term that is less than the final maturity of the financing being requested for a project, then that portion of the debt service associated with the facilities required to serve such member should be collected by the G&T during the period of the contract term between such member and the G&T. For example, if a distribution member of a G&T wants to sign a wholesale power contract for 20 years and the financing for the facilities matures in 35 years, then the G&T should charge rates to the distribution member such that it recovers that distribution co-op's portion of its debt service for that facility within the 20-year life of the contract between the distribution co-op and the G&T. In the case of bonds, the debt associated with these facilities may reflect this arrangement by a split in the amortization of the debt for the facilities. It could also be accomplished by the G&T collecting such additional amounts during years 1-20

and placing them in dedicated account available for debt service during years 21-35. In the RUS program this could be accomplished through "Cushion of Credit" payments made in years 1-20 and then drawn upon in years 21-35, or the same objective could be achieved through other mechanisms. (Regardless of the mechanism used, a distribution system that chooses to pursue such a "mismatched" approach may incur higher costs during the initial period than it would otherwise have incurred.)

- In private capital markets, there are a limited number of situations where no special arrangements would be required despite a mismatch between the terms of wholesale power contracts and the terms of financing obtained to construct facilities. These would include situations where the size of a new project was a very small/immaterial percentage of a G&T's capacity and the G&T had significant financial strength. Other situations would be limited to those unusual cases where a wholesale power entity owns facilities that are so attractive with respect to their low-cost and other features that investors conclude that the output from those facilities will be sold at reasonable prices sufficient to pay debt service costs, despite the fact that distribution utilities are not bound by contract to purchase power from the entity for the life of the financing. In the electric cooperative industry, there may be examples of G&Ts with these characteristics.

3. Buyout/Exit Provisions

Buyout or exit provisions can be incorporated into the wholesale power contract in a manner that does not increase risks to lenders or compromise the "financiability" of a G&T.

Requests for exit fee provisions were driven to some extent by the "customer choice" programs that were adopted by a number of states. Under these programs, if a distribution utility opted for "customer choice" and lost customer load, then a "stranded cost" could occur at the generation level, and, in some cases cause a cost burden at the distribution level, depending on the nature of wholesale rate provisions (such as ratchet clauses) and the specifics of the contract between the distribution utility and the G&T. In some states this "stranded cost" was handled through a separate transition charge on each customer's bill. These charges were essentially the fees associated with exiting obligations in order to enable "customer choice" to be made available.

An exit fee or buyout provision may or may not be associated with "customer choice". In some cases, large rate disparities and competitive pressures gave rise to the demand for exit provisions by distribution cooperatives. In any event, the basic principle behind any such exit fee is that it must make the G&T whole, be fair to all of the members of the G&T (including those who are exiting and those who are staying), and not increase risks to lenders or bondholders.

The specific calculation of an exit fee will depend on the facts of each case. Certain general principles could be developed to guide the formulation of the exit fee calculation.

In fact, such exit or buyout options have been developed and used in the case of a small number of G&Ts during the past decade.

4. "Joint and Several" Obligation

The standard wholesale power contract requires the G&T to charge rates sufficient to cover its costs and to build reasonable reserves and requires the distribution cooperative to purchase all of its requirements from the G&T. Under this contract, if one distribution member defaults on its obligations, the G&T is still obligated to charge rates sufficient to cover its costs, even if this means shifting some of the obligations of the defaulting member onto other members of the G&T.

This "joint and several" aspect of a wholesale power contract provides comfort to lenders and bondholders. If this provision is not included in a contract, (and instead, each distribution member's obligation is limited to the costs associated with certain specified percentages of certain facilities) then the lender or bondholder needs to have comfort that the G&T will have the ability to honor its debt service obligations.

The alternative to a "joint and several" contract is a "pro-rata" share contract. The financial cushion afforded by the "joint and several" feature can be substituted by (a) a stronger financial position of the G&T at the time of initiating the arrangement without the "joint and several" requirement; and (b) mechanisms that build and sustain financial strength. These mechanisms can include a combination of higher coverage ratios (debt service coverage ratios of 1.2 to 1.25 appear to be common in many commercial transactions); guarantees from sponsoring entities; a financial cushion in the form of a debt service reserve fund of up to 10% of the financing; and, a "step-up" provision under which each sponsoring entity agrees to step up in the event of default by one of the parties, but limits the amount of the additional payments for which any party is obligated to a fixed percentage (such as 10%) above what its payments would otherwise be. Such "step up" provisions may be more acceptable in cases where no one party is dominant and where the wholesale power provider has a certain level of financial strength on its own balance sheet.

Thus, in order to preserve "financiability" and be consistent with a "commercially reasonable" test, the abandonment of a "joint and several" obligation would need to be limited to G&Ts whose distribution members are willing to pay for a combination of enhancements sufficient to compensate for the absence of the "joint and several" requirement.

5. Shoshone Language

RUS has generally required that distribution members of G&Ts sign wholesale power contracts that include the "Shoshone" language, the purpose of which is to protect the G&T, and its lenders (primarily RUS), in the event of sale of the distribution member or its assets.

To the best of our knowledge no similar provision is included in wholesale power agreements generally prevalent in the marketplace, nor would such a provision be required in order for a G&T to be able to secure private market financing.

Conclusion

It is definitely possible to make significant modifications to the standard wholesale power contract without compromising the “financiability” of G&Ts, or threatening loan security.

However, each modification involves a trade-off between the desire for flexibility and the cost of obtaining that flexibility. These costs range from higher initial costs for a distribution co-op that is unwilling to sign a contract for the life of the financing that will meet its future needs to the cost of building and retaining substantial equity and cash reserves at the G&T level. Cooperatives that seek this flexibility believe that the cost of “buying” this flexibility are offset by savings achieved as a result of their ability to obtain more attractive arrangements outside of the standard contract.

It is clear that cooperatives will continue to request flexibility in the terms of wholesale power contracts. The standard wholesale power contract continues to serve our program well, however, even under that contract, projects which turned out to be uneconomic were financed, requiring substantial write offs. The decisions as to which modifications should be built into the contracts between a G&T and its distribution members should perhaps be left to each G&T family. Each G&T family may be in the best position to evaluate the trade-offs associated with contract modifications, as well as related governance issues and whether their particular G&T can achieve the unanimous consent that is needed when financing is contingent upon all members of the G&T signing the standard all requirements wholesale power contract. We, as lenders, should perhaps be indifferent as to whether or not a wholesale power contract is modified or which governance solutions are adopted, as long as the modifications or solutions do not threaten loan security, or impair the “financiability” of G&Ts or their distribution members.

Proposed Approach

As co-ops make decisions concerning their power supply future, it will be useful if the alternatives with respect to financing are clear. An approach to achieve this clarity and meet the “commercially reasonable” test is to provide co-ops with essentially two choices:

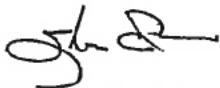
1. The Standard All Requirements Wholesale Power Contract: Those co-ops that have accepted the current arrangement are free to continue to use this standard document which has served the program very well and certainly provides a very “financiable” and commercially reasonable approach.

2. Incremental Subscription Approach for Future Needs: Those G&Ts and member distribution co-ops that desire a greater level of flexibility than provided for in the standard wholesale power contract could obtain modifications to the contract that satisfy the "commercially reasonable" tests, as outlined in this letter. These modifications would (a) require the distribution cooperative to honor all of its obligations under its "baseline" wholesale power contract concerning commitments made prior to exercising an option for an incremental subscription approach for future needs; and (b) permit the distribution system to enter into new contracts for incremental needs above those covered by its "baseline" wholesale power contract. These "incremental subscription" contracts could be entered into between the distribution cooperative and the G&T that provides its "baseline" needs, or with another party. And a distribution cooperative could enter into multiple "incremental subscription" contracts without necessitating any change in the "baseline" contract between the G&T and its distribution members. The standard requirement for financing provided pursuant to such an "incremental subscription" approach would include a "take or pay" contract with joint and several obligations.

We have reviewed this letter with the Committee appointed last fall by the National G&T Managers Association with whom you also met on November 25, 2003. Jeff Nelson, Chairman of that Committee has informed us that the Committee concurs with the observations and recommendations contained in this letter. Additionally, that Committee has asked that we send to you the enclosed document concerning an issue that you had raised when you met with them, related to reasonable timing for approvals of various financial transactions.

I hope that you will find our thoughts on this matter to be helpful to you. I look forward to visiting with you in the near future.

Sincerely,



Sheldon C. Petersen
Governor & CEO

Attachments

LEHMAN BROTHERS

STEPHEN PETERS
MANAGING DIRECTOR
PUBLIC FINANCE

February 5, 2004

Mr. Steven Lilly
Chief Financial Officer
National Rural Utilities Cooperative Finance Corporation
2201 Cooperative Way
Herndon, VA 20171

Subject: Considerations for Wholesale Power Contracts

Dear Steve:

This letter discusses Wholesale Power Contracts from the perspective of what specific provisions or outside factors impact them as the financial backing for outside borrowing. It is not meant to be an exclusive discussion, and clearly additional factors can be considered.

Background

Power Purchase Agreements and Whole Power Contracts (hereinafter called "Power Contracts" or "PPA") between a Generator/Seller (hereinafter "Seller, Supplier or G&T Coop") and a Distribution Member (hereinafter "Distributor") are often structured as an "all requirements" contract. This obligates the Seller to generate and the Distributor to buy 100% of the capacity and energy required by the Distributor. As the service areas of the Distributors continue to experience load growth, they have been and will continue to seek additional capacity to meet this growth. The most cost effective generation may be available from a supplier other than the incumbent G&T Coop with whom the Distributor has traditionally contracted.

This leads to a discussion of what are some of the considerations for existing Power Contracts in order to accommodate an additional/incremental capacity and energy contract with a third party generator. All of this must be viewed in light of a Power Contract's viability as the financial backing for funding arrangements by the incumbent or any new generation Supplier.

Several areas which can impact a Power Contract, existing or new, as to its financial basis for outside funding are:

- (1) Modifications to an existing Power Contract that be necessary to allow incremental purchases from another Supplier

Page 2

- (2) Customer choice – loss of load and can this event be covered in a contract through exit fees. Provider of Last Resort considerations (“POLR”)
- (3) Step-up provisions to mitigate non-performance by another Distributor
- (4) Relationship between contract length and bond maturities
- (5) System power vs. plant specific power for a PPA

(1) Modifications to Existing Contracts for Incremental Purchases

You provided to me the wholesale power contract between a G&T Coop and a Distributor that may be typical of an “all-requirements” contract. This contract acknowledges that the Distributor may have an existing supply contract outside of its G&T Coop relationship. But it then requires that all financial aspects of that contract have to be done through G&T Coop, as a billing and collection agent for the outside supplier. While, the G&T Coop may be directly involved in the energy delivery under a third party contract, this requirement for billing and collections may not be acceptable to other Distributors, the G&T Coop, or to a third party supplier.

An existing contract could be modified by inserting a new section which expressly acknowledges and permits power supply contracts outside of an existing all-requirements wholesale power contract. Such a provision could also clarify the role, if any, that the G&T Coop supplier might have in either the approval or facilitating of an outside contract and the resulting delivery of energy to the Distributor.

(2) Customer choice and its impact on a power purchase agreement

Many States have enacted legislation which allows a retail customer to choose its energy Supplier, which could be a generator other than its traditional G&T Cooperative. This process varies amongst the States – some States have set a customer choice goal for a certain percentage overall load to enhance a competitive wholesale market. Other States set a limit on the amount of load that can be switched, while others differentiate Customer Choice as between industrial, large commercial and the smaller retail users. No matter which State program is followed, the incumbent Distributor (and indirectly the G&T Coop Supplier) can be impacted through loss of load and revenue from the reduced generation related revenues. It should be noted that the wires related transmission and delivery functions would still be performed and billed by the Distributor.

Some States allow retail users to switch providers during specified time period without any compensation to the incumbent provider. This process is generally known far enough in advance for appropriate planning as to load requirements. However, in several States there is a “dedicated rate component” on all retail bills to financially secure a bond issue for Stranded Costs or other purposes. These states also have an exit fee requirement for any retail user which switches provider. This exit fee will make up for any ongoing revenue loss and keep the revenue inflow requirements at proper levels for the stranded

cost financing. Some states have curtailed or even placed a "moratorium" on customer choice while a financing is in place.

Customer choice can have a reverse impact if retail users can switch back to the incumbent or the POLR without a proper notice period. An increase in load could place a burden on the Distributor and the G&T Coop, especially if overall capacity was not available. Each State's legislation on Customer choice must be checked to see how this situation is handled.

(3) Step-Up Provision (Mitigation of non-performance by a Distributor)

Wholesale Power contracts will often provide for a joint and several obligation on the part of the Distributors. This provision ensures that all the capacity and energy from a G&T Cooperative will be subscribed for. This in turn makes the wholesale Power Contracts more financially from the perspective of the G&T Cooperative. A joint and several obligation works when there is a large group of Distributors with no single one having a significant percentage of the capacity.

It is more common with public power joint action contracts to have a "step-up" provision which limits each participant to a step-up percentage above its original subscription. In this way, the participant is protected from a large, unexpected, and financially difficult situation. In turn, the generation entity (usually a joint action agency) is given enough cushion to withstand the financial non-performance of a participant. If the Supplier is itself an integrated utility, then the step-up provisions may include a "first loss" coverage of capacity by the Supplier. Generally, step-up provisions have a 10% - 25% incremental obligation for each participant. With a "first loss" clause, the step-up can go higher up to 100%. The rating agencies and investors will focus on the step-up provisions as an important part of their analysis.

(4) Relationship between contract length and Debt Maturity

Ideally, there is an exact match between the term of a PPA and the final maturity of debt which is financed based on the PPA. Virtually all financing for public power joint action agencies reflect similar maturities for the PPA and debt. The same has been true for G&T Cooperative financing in the tax exempt market for pollution control and solid waste related facilities. There are very few exceptions to this standard, and then, only for generation related entities that have very low cost power and/or their own retail distribution system that could absorb the additional load if a PPA were not renewed. An example is the New York Power Authority which has the low cost hydroelectric power. The analysis for debt vs. PPA term is done on a case by case basis and a G&T Cooperative with very favorable generation characteristics may be able to finance longer than the length of its PPA's.

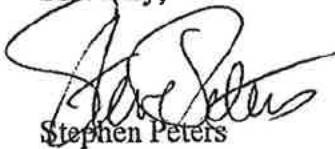
Page 4

(5) System Power vs. Plant Specific Power

An all requirements contract generally assumes that the Supplier will have access to multiple sources of power to fulfill its obligation to serve the Distributor. If a contract for incremental power is facility specific, the Distributor must determine if the Supplier under the contract can or will provide an alternative source. Without this, a Distributor may have to seek power either through its incumbent G&T Cooperative or directly in the spot market. While this issue is really one for the Distributor to deal with under its incremental contract, the G&T Cooperative could get indirectly impacted if spot market power is so expensive as to cause a strain on the Distributor's ability to meet its ongoing financial obligations under its primary whole sale power contract.

I look forward to talking with you about this.

Sincerely,



Stephen Peters
Managing Director

cc: Rich Larochelle

FINANCING & REGULATORY ACTION Timetable Benchmarks

Regulatory Timelines

Required Action	Regulator	Expected Timeframe
Major rate case	State PUC	10 months
Certificate of Need	State PUC	6 months
Misc. filings, 3 rd party contract approvals	State PUC	60-90 days
Miscellaneous regulatory issues	FERC	90 days

Financing Timelines

Required Action	Financial Institution	Expected Timeframe
\$100 Million Financing	Commercial Bank	8 - 10 weeks
\$50 - 100 Financing	CoBank	30-60 days
Fast Track (peaking plant)	RUS/CFC	90 day goal - actual experience 120 days*
Capital market access*	Various	12 weeks
Term and Bridge financings*	Various	3 to 6 months
Lease financing*	Various	6 to 8 months
Debt financing*	Various	3 to 6 months
SEC registered offering**	Various	5 weeks
Private placement**	Various	6 to 8 weeks
Syndicated Bank Facility**	Various	8 weeks
144 A offering**	Various	5 weeks

*Actual G&T experiences

** Benchmarking data from CFC

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in

7/11/11

AMENDMENT NO. 5 TO WHOLESALE POWER CONTRACT
BETWEEN
EAST KENTUCKY POWER COOPERATIVE, INC.
AND
[NAME OF MEMBER]

This Amendment No. 5 to Wholesale Power Contract (this "Amendment"), dated as of _____, 2011, amends the Wholesale Power Contract, dated October 1, 1964, between East Kentucky Power Cooperative, Inc. (hereinafter, the "Seller") and [Name of Member] (hereinafter, the "Member"), as heretofore amended, as follows:

I. Numerical Section 1 of the Wholesale Power Contract is amended and restated to read in its entirety as follows:

1. General - The Seller will sell and deliver to the Member and the Member will purchase and receive from the Seller all electric power and energy which will be required to serve the Member's load, including all electric power and energy required for the operation of the Member's system. Notwithstanding the foregoing, the Member will have the option, from time to time, to receive electric power and energy from suppliers other than the Seller or from facilities owned or leased by the Member, subject to and in accordance with the following terms and conditions, and policies and procedures established and maintained by the Seller, as amended by the Seller from time to time, for implementing elections by the Member to exercise such option.

For any election under this Section, the following provisions will apply:

a. Except as specifically provided in Subsections g. and l. below, the Member will be responsible for all stranded costs and all additional costs incurred by the Seller as a result of such election. For purposes of this Section 1, stranded costs will be determined on the basis of a

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in

7/11/11

fixed cost component and two credit components, which will be calculated and payable as follows:

i. The fixed cost component will be calculated annually and will include the following expenses incurred by the Seller that would be covered by the rates paid by the Member under this contract if the Member had not made the election for third-party supply or self-supply:

1. Depreciation expense on generation plant in service;
2. Payments under leases of generation plant;
3. Fixed charges under power supply purchase agreements with a term longer than one year; and
4. Interest expense associated with generation plant in service.

For each calendar year the election is in effect, the fixed cost component will be due and payable in advance by January 30th of that calendar year. At the end of each calendar year the election is in effect, the Seller will re-calculate the fixed cost component based on actual expenses, and any over-payment or under-payment of the fixed cost component will be credited or added to the fixed cost component payable by the Member in the subsequent calendar year.

ii. The future capital investment credit, if any, will be determined at the time an election under this Section 1 is made. The production cost model reflecting the current resource plan will be run to determine if the load to be removed would result in the delay of any future capital investment by the Seller. The net present value resulting from any such delay will be credited to the Member in one lump sum on the invoice under this contract for the first month the election goes into effect.

iii. The energy market credit component will be payable only after the Seller obtains all regulatory approvals required for changes to the Seller's rates under this contract and the other all requirements wholesale power contracts between the Seller and its other members designed to collect the cost of this credit from the other members of the Seller. The Seller will promptly apply for and use commercially reasonable efforts to obtain such approvals. This credit component will be calculated monthly using the production cost model. After the end of each month, the production cost model will be run with and without the load that was actually served by the Member's third-party supply or self-supply. The run with such load will be based on the assumption that during each hour in which the Seller purchased energy from the market, the load actually served by the Member's third-party supply or self-supply could have been served by a purchase from the market at the same market price the Seller paid in such hour. If the average cost per MWh result of the run with such load is greater than the average cost per MWh result of the run without such load, the energy market credit component for such month will equal the difference between the two results (in dollars per MWh) multiplied by the amount of energy (in MWhs) actually served by the Member's third-party or self-supply in such month. If the average cost per MWh result of the run with such load is

equal to or less than the average cost per MWh result of the run without such load, the energy market credit component for such month will be zero. After the end of each calendar year, the Seller will determine the sum of the energy market credit component for each month of that year, and will credit such sum to the Member in one lump sum on the invoice under this contract for power and energy sold in January of the following calendar year, minus any out-of-pocket expenses incurred by the Seller in calculating such credit.

The Seller will evaluate, and make appropriate adjustments to, the production cost model no less frequently than every two years to ensure that such model reflects a reasonable estimate of the Seller's production costs.

b. In connection with each election to purchase from a third-party supplier or self-supply, the maximum amount of capacity the Member may elect to so purchase or supply, together with the amount of capacity, if any, the Member is then purchasing from a third-party supplier or self supplying and the amount, if any, the Member has transferred to one or more other members of the Seller pursuant to Subsection c., is five percent (5%) of the average of the Member's peak demand coincident with the Seller's peak demand in each of the three most recently completed calendar years immediately preceding the Member's election. The Member may, in connection with any such election, exceed this maximum amount of capacity by any amount of entitlement to obtain third-party supply or self-supply of another member of the Seller that the Member has obtained from the other member, provided that the Member and the other member have provided prior written notice to the Seller in accordance with the Seller's policies and procedures.

c. The Member may from time to time transfer to another member of Seller all or any portion of its entitlement under this Section 1 to obtain third-party supply for, or self supply, load. The maximum amount of such entitlement the Member may transfer at any time is the maximum amount the Member may elect at such time to obtain third-party supply for, or self-supply, its own load.

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in
7/11/11

d. Transmission services ~~(Schedule 7 Long Term Firm Point to Point)~~ and, except as provided in this Subsection d., ancillary services ~~Schedule 4 (Energy Imbalance Service) and Schedule 11 (Loss Compensation Service)~~ needed to deliver any such third-party supply or self-supply to the Member's system will not be provided to the Member under this contract. In connection with each election to purchase from a third-party supplier or self-supply, if such third-party supply or self-supply is delivered to the Member's system across the Seller's transmission system, the Member or the third-party supplier must separately purchase transmission and ancillary services from the Seller pursuant to the Seller's Open Access Transmission Tariff. ~~In connection with any such transmission service separately purchased by the Member, the following ancillary services needed to deliver any such third party supply or self-supply to the Member's system will be provided to, and paid for by the Member, under this contract pursuant to the rates and charges established under Section 4 to this Contract: Schedule 1 (Scheduling, System Control and Dispatch Service), Schedule 2 (Reactive Supply and Voltage Control), Schedule 3 (Regulation and Frequency Response Service), Schedule 5 (Operating Reserves – Spinning Reserves) and Schedule 6 (Operating Reserves – Supplemental Reserve Service).~~

e. The third-party supply, or self-supply, must be a firm capacity and energy supply, and must (1) be provided by a Distributed Generation Resource or a Renewable Energy Resource or (2) serve (i) the actual hourly load of one or more specifically identified retail meters, (ii) a percentage of the Member's actual hourly load at specified delivery points, (iii) a fixed hourly supply schedule, so long as the Member or third-party supplier purchases from the Seller ~~energy imbalance service and such other~~ transmission and ancillary services as are required pursuant to Subsection d. with respect to such supply, or (iv) such other load as is approved in accordance

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni on

7/11/11

with the Seller's policies and procedures. For purposes of this Section 1, a "Distributed Generation Resource" is an electric generator, or combination of generators at a single location, with a total nameplate capacity of not more than 2,500 kW, owned by the Member or a third-party supplier, and which is subject to the exclusive dispatch control of the Seller. For purposes of this Section 1, a "Renewable Energy Resource" is an electric generator owned by the Member or a third-party supplier, which is powered by solar, wind, biomass, geothermal, water motion, water thermal, landfill gas or stranded gas energy sources.

f. The responsibilities of the Member with respect to load served by a third-party or the Member will vary as provided in Subsections h. and i. depending on whether the load is New Load or Existing Load. For purposes of this Section 1, "New Load" means (i) retail load within the Member's current distribution system footprint of at least 2,500 kW for a customer, as measured at one or more of such customer's meters, as to which the Member makes the election at the time the Member first starts serving load at such meters, (ii) retail load of at least 2,500 kW at one or more of a customer's meters previously served by the Member and at which new or re-started operations commence after a period of at least twelve (12) months during which no electric service was provided by the Member to such meters, or (iii) load of a newly acquired service territory as to which the Member makes the election at the time the Member first acquires the service territory. For purposes of this Section 1, "Existing Load" means any load that is not a New Load.

g. If the load to be served by a third-party or the Member is New Load, or if the third-party supply or self-supply is from a Distributed Generation Resource or a Renewable Energy Resource, the Member will not be obligated to reimburse the Seller for stranded costs.

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in

7/11/11

h. The Member will be responsible for obtaining all additional supply for any load growth for: (i) any New Load and (ii) any Existing Load that is a specifically identified retail load.

i. The Member must give the Seller at least one hundred eighty (180) days prior written notice of any election under this Section 1 to purchase from a third-party supplier or self-supply. The Member must give the Seller at least one (1) year, or such longer period as may be required to permit the Seller to comply with the Seller's capacity obligations in any organized capacity market in which the Seller participates, prior written notice to cancel any such election and obtain supply under this contract for the applicable load. All such notices must comply with the Seller's policies and procedures. In addition, with respect to any load in new service territory described in Subsection g(iii) as to which the Member elected third-party or self supply, the Seller's Board of Directors must approve any election by the Member to obtain supply under this contract for load in such territory.

j. The effective date of the Member's cancellation of any such election may not be prior to the end of the term of such election as indicated by the Member when the election was first made, unless the Board of Directors approves an earlier cancellation date. Upon the effective date of the Member's cancellation of any such election, the applicable load will be governed by the all requirements obligations of the Seller and the Member in this Section 1, ~~and the Member may not thereafter elect to serve such load from suppliers other than the Seller or from facilities owned or leased by the Member.~~

k. The Seller will make available interconnection, transmission, and other ancillary services to any third-party supplier or the Member in accordance with its Open Access Transmission Tariff as in effect from time to time, pursuant to separate agreements with such

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in

7/11/11

terms and conditions as are acceptable to the Seller and the third-party supplier or the Member, as the case may be, without discrimination or adverse distinction with regard to rates, terms of service or availability of such service, as required by law.

l. Set forth on Schedule B hereto is a list of all electric generation supply that is used by any member of the Seller to serve any portion of its load and is not provided to such member by the Seller. The Seller will modify Schedule B from time to time to reflect changes thereto in connection with the exercise by the Member or other members of the Seller of the third-party and self-supply options set forth in this Section 1 and in the other all-requirements wholesale power contracts between the Seller and the other members. The Member acknowledges and agrees that the capacity of such supply reflected on Schedule B as being used by the Member will, for so long as such supply continues to be used by the Member to serve its load, be taken into account in calculating pursuant to Subsection b. the remaining amount of capacity the Member may elect to purchase from a third-party supplier or self-supply. The Seller hereby agrees that no stranded costs, and no additional costs incurred by the Seller, as a result of the supplies listed on Schedule B as of April 1, 2011 will be payable by the members that use such supplies.

m. At the request of the Member or any other member of the Seller, the Seller may purchase wholesale power from a third party and re-sell such power to members of the Seller under agreements with such purchasing members that are separate from such purchasing members' all-requirements wholesale power contracts with the Seller. Any such purchases by a member of the Seller will be treated as an election to obtain third-party supply for all purposes of this contract and the other all-requirements wholesale power contracts between the Seller and the other members.

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in
7/11/11

II. The Wholesale Power Contract is hereby amended to add the Schedule B attached to this Amendment as Schedule B to the Wholesale Power Contract.

III. Effectiveness - This Amendment will become effective only upon approval in writing by the Administrator of the Rural Utilities Service of (i) this Amendment, as executed and delivered by the Seller and the Member and (ii) amendments identical to this Amendment to the all of the all-requirements wholesale power contracts between the Seller and eachall other members of the Seller, as executed and delivered by the Seller and the other members of the Seller.

DRAFT: 6/10/11, as modified by D. Crews on 7/8, and further modified by D. Franzoni in

7/11/11

IN WITNESS WHEREOF, the Seller and the Member have caused this Amendment to be executed and attested by their respective duly authorized officers, as of the day and year first written above.

**EAST KENTUCKY POWER
COOPERATIVE, INC.**

BY: _____

ITS: _____

Attest: _____

SECRETARY

[NAME OF MEMBER]

BY: _____

ITS: _____

Attest: _____

SECRETARY

Schedule B
To
Wholesale Power Contract, dated as of October 1, 1964, as amended

Member Third-Party or Self-Supply Pursuant to Section 1
As of _____, 2011

<u>Member</u>	<u>Description of Supply</u>	<u>Capacity</u>	<u>Type*</u>
Big Sandy RECC			
Blue Grass Energy			
Clark Energy			
Cumberland Valley Electric			
Farmers RECC			
Fleming-Mason Energy			
Grayson RECC			
Inter-County Energy			
Jackson Energy			
Licking Valley RECC			
Nolin RECC			
Owen Electric			
Salt River Electric			
Shelby Energy			
South Kentucky Rural Electric			
Taylor County RECC			

**Types of supply are: DG – Distributed Generation
RE – Renewable Energy
TP – Third-Party Supply
SS – Self-Supply*

**Suggested Discussion Topics
of
Jackson Energy Cooperative
Owen Electric Cooperative
Salt River Electric Cooperative Cooperation
Regarding
EKPC's Members' Use of Alternate Power Sources**

June 13, 2012

1. Transmission Service

- a. Use of Network Transmission Service
- b. Treatment of behind-the-meter generation
- c. Pricing under OATT vs. transmission component of EKPC rate
- d. Needs to be non-preferential

2. Reserves

- a. Required reserve level(s), if any
 - (1) Reserve equalization
 - (2) Other
- b. Treatment of firm purchases from others
- c. Availability of and pricing of reserves from
 - (1) Operating reserves (spinning and supplemental)
 - (2) Additional installed reserves
- d. Reserve sharing

3. Dispatching

- a. Availability of dispatching service from EKPC
- b. Pricing

4. Pooling

- a. Combined, least-cost dispatch of EKPC and alternate resources
- b. Method of sharing benefits

1) Mark & group want to fix amendment #3.

2) Can not fix amendment #5

3) Lynzweiler:

A) Allocation of the 5% is an issue.

B) Stated if under the 5% then maybe not an issue.

C) Could draft an MOU regarding amendment #3.

D) Ground rules for all members.

E)

4) Transmission service:

A) Network system (trans) → PJM turned over.

B) Stated no one should have preferential contract.

C) Common ground → Whether member pays to EOPC
if should be the same whether on or off the system.

D) You want to pay all owed costs, but no penalty.

- 5) Wants us to unbundle.
- 6) Tony stated MOA would be for all small renewable projects.
- 7) Point to-point out of our system. (IPP off system)

Reserves

- 8) I stated if we have the 5% limit / Owen I am okay w/ most proposals.
- 9) We will look @ reserve sharing.

Dispatch :

- 10) PJM will take this. (balancing authority)
- 11)

Pooling :

- 12) ^{60 days} Would like to take 60 days. to draft on a MOA.