

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In The Matter Of:

The Electronic Application Of Kentucky Power )  
Company For Approval Of A Contract For ) Case No. 2019-00124  
Electric Service With M C Mining, LLC )

**APPLICATION**

Kentucky Power Company (“Kentucky Power” or the “Company”) moves the Public Service Commission of Kentucky (“Commission”), pursuant to KRS 278.160, 807 KAR 5:001 Section 14, 807 KAR 5:011 Section 13, and other applicable law, for an order approving a special contract identified as “Contract for Electric Service Between Kentucky Power Company and M C Mining, LLC” (the “Special Contract”).<sup>1</sup> In support of this Application, Kentucky Power states as follows:

**APPLICANT INFORMATION AND GENERAL FILING REQUIREMENTS**

1. Kentucky Power is a corporation organized under the laws of the Commonwealth of Kentucky.<sup>2</sup> The Company is in good standing in the Commonwealth.
2. The post office address of Kentucky Power is 855 Central Avenue, Suite 200, Ashland, Kentucky 41101. The Company’s electronic mail address is [kentucky\\_regulatory\\_services@aep.com](mailto:kentucky_regulatory_services@aep.com).
3. Kentucky Power is engaged in the generation, purchase, transmission, distribution and sale of electric power. Kentucky Power serves approximately 166,000 customers in the following 20 counties of eastern Kentucky: Boyd, Breathitt, Carter, Clay, Elliott, Floyd, Greenup,

<sup>1</sup> The Special Contract is attached as **EXHIBIT 2** to this Application.

<sup>2</sup> A certified copy of the Company’s Articles of Incorporation and all amendments thereto was attached to the Joint Application in *In the Matter Of: The Joint Application Of Kentucky Power Company, American Electric Power Company, Inc. And Central And South West Corporation Regarding A Proposed Merger*, P.S.C. Case No. 99-149. The Company’s April 3, 2019 Certificate of Existence is filed as **EXHIBIT 1** to this Application.

Johnson, Knott, Lawrence, Leslie, Letcher, Lewis, Magoffin, Martin, Morgan, Owsley, Perry, Pike and Rowan. Kentucky Power also supplies electric power at wholesale to other utilities and municipalities in Kentucky for resale. Kentucky Power is a utility as that term is defined at KRS 278.010.

4. Kentucky Power is a wholly-owned subsidiary of American Electric Power Company, Inc. (“AEP”). AEP is a multi-state public utility holding company that provides electric service to customers in parts of eleven states: Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia, and West Virginia.

#### BACKGROUND

5. Once the economic backbone of the area, the coal mining economy in eastern Kentucky has declined as a result of forces largely beyond its control. Eastern Kentucky coal production decreased from 17.85 million tons in the third quarter of 2009 to 3.9 million tons in the fourth quarter of 2018.<sup>3</sup> The direct and indirect job losses over the past few years resulting from the downturn in coal mining activity have been felt throughout the Company’s service territory. Eastern Kentucky coal industry employment declined from 13,278 jobs in the third quarter of 2009 to 3,999 jobs in the fourth quarter of 2018.<sup>4</sup> The overall unemployment rate in the 20 counties comprising Kentucky Power’s service territory is markedly higher than the 4.3 percent unemployment rate for Kentucky as a whole.<sup>5</sup> Unemployment in the Company’s service territory ranged from a high of 13.3 percent in Magoffin County to a low of 5.4 percent in Rowan County.<sup>6</sup>

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<sup>3</sup> <https://eec.ky.gov/Energy/News-Publications/Quarterly%20Coal%20Reports/2018-Q4.pdf> (last visited April 15, 2019).

<sup>4</sup> *Id.*

<sup>5</sup> [https://kystats.ky.gov/Content/Reports/201902\\_CountyLAUSMaps.pdf](https://kystats.ky.gov/Content/Reports/201902_CountyLAUSMaps.pdf) (last visited April 15, 2019).

<sup>6</sup> *Id.*

6. Unemployment and declining economic activity in Kentucky Power's service territory has resulted in a concomitant population decline between 2010 and 2016 in 18 of the 20 counties comprising the Company's service territory.<sup>7</sup> Kentucky Power's total customers declined by approximately four percent from approximately 173,400 customers to approximately 166,000 customers between 2011 and 2019.

7. The coal extraction and processing industry remains critical to the eastern Kentucky economy. In order to expand its economic development efforts and support the revitalization of the coal extraction and processing industry in its service territory, which in turn will provide needed jobs and economic investment in the region, Kentucky Power requested authority to establish Tariff C.S. - Coal (Contract Service – Coal Power) in Case No. 2017-00099.<sup>8</sup> The Commission approved the Company's initial request to establish the rider,<sup>9</sup> and it has twice-approved the Company's requests to extend the rider's expiration date.<sup>10</sup>

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<sup>7</sup> <https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk> (last visited April 18, 2019).

<sup>8</sup> *In The Matter Of: Application Of Kentucky Power Company For (1) Authority To Amend Temporarily Tariff C.S. – I.R.P. And Tariff E.D.R.; (2) To Establish Temporarily Tariff C.S. – Coal; (3) For Leave To Deviate From The Notice Requirements Of 807 KAR 5:011, Section 8; (4) For Related Accounting Relief; And 5) For All Other Required Approvals And Relief*, Application, Case No. 2017-00099 (Feb. 23, 2017).

<sup>9</sup> *In The Matter Of: Application Of Kentucky Power Company For (1) Authority To Amend Temporarily Tariff C.S. – I.R.P. And Tariff E.D.R.; (2) To Establish Temporarily Tariff C.S. – Coal; (3) For Leave To Deviate From The Notice Requirements Of 807 KAR 5:011, Section 8; (4) For Related Accounting Relief; And 5) For All Other Required Approvals And Relief*, Order at 10, Case No. 2017-00099 (Mar. 23, 2017) (approving Tariff C.S. – Coal with a December 31, 2017 expiration date).

<sup>10</sup> *In The Matter Of: Electronic Application Of Kentucky Power Company For (1) A General Adjustment Of Its Rates For Electric Service; (2) An Order Approving Its 2017 Environmental Compliance Plan; (3) An Order Approving Its Tariffs And Riders; (4) An Order Approving Accounting Practices To Establish Regulatory Assets And Liabilities; And (5) An Order Granting All Other Required Approvals And Relief*, Order at 61-62, Case No. 2017-00179 (Jan. 18, 2018) (approving extension of Tariff C.S. – Coal's expiration date to December 31, 2018); *In The Matter Of: Tariff Filing Of Kentucky Power Company For Proposed Changes To Tariff Sheet 11-2, Tariff Sheet 12-1, And Tariff Sheet 37-6*, Order at 2, Case No. 2018-00426 (Feb. 12, 2019) (approving extension of the rider's expiration date to December 31, 2019) P.S.C. Ky. No. 11 1<sup>st</sup> Revised Sheet No. 11-2, Special Terms and Conditions.

8. Under Tariff C.S.-Coal, the Company may enter into an economic development-based contract for electric service with a new customer engaged in the extraction or processing of coal or an existing coal extraction and processing customer with a load expansion.<sup>11</sup> Such contracts “shall provide full disclosure of all rates, terms and conditions of service under [the] Tariff, and any and all agreements related thereto,” and “will become effective only upon approval by the Commission.”<sup>12</sup>

### **M C MINING, LLC**

9. M C Mining, LLC (“M C Mining”) is a Delaware limited liability company with operations near Pikeville, Kentucky. M C Mining intends to open a new mine located at Varney, Right Fork of Brushy Road in Pike County, Kentucky in the Company’s service territory. The new mine, Excel Mine No. 5, represents a transition of M C Mining’s existing Pike County operation as the currently-mined reserves are depleted in 2020. The new Excel Mine No. 5 constitutes a load expansion under the terms of Tariff C.S.-Coal.

10. According to an announcement by M C Mining’s ultimate parent company, Alliance Resource Partners, LP, \$45 to \$50 million will be invested in the development of Excel Mine No. 5 in order to begin mining operations of an estimated 15 million tons of coal reserves controlled by M C Mining in 2020.<sup>13</sup> The underground operation will utilize continuous mining units employing room-and-pillar mining techniques.<sup>14</sup> The annual production capacity of Excel Mine No. 5 is expected to be approximately 1.3 million tons of high BTU, low-sulfur coal.<sup>15</sup>

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<sup>11</sup> P.S.C. Ky. No. 11 1<sup>st</sup> Revised Sheet No. 11-1, Availability of Service, Conditions of Service.

<sup>12</sup> *Id.*, Conditions of Service.

<sup>13</sup> Press Release, *Alliance Resource Partners, L.P. Announces Agreement to Acquire Oil and Gas Mineral Interests and Development of Excel Mine No. 5* (Dec. 16, 2018), available at <http://www.arlp.com/file/Index?KeyFile=396120950> (last visited April 11, 2019).

<sup>14</sup> *Id.*

<sup>15</sup> *Id.*

11. Subject to Commission approval of the Special Contract, the Company will provide retail electric service to M C Mining under the terms and conditions contained in the Special Contract. The service the Company will provide to M C Mining pursuant to the Special Contract will provide benefits to M C Mining, the Company, the Company's other customers, and the Commonwealth of Kentucky.

### THE SPECIAL CONTRACT

12. The Special Contract provides that M C Mining will take firm service under the Company's Tariff I.G.S. and interruptible service under the Company's Tariff C.S. – I.R.P., as modified by the interruptible service provisions of this contract included in Articles 3, 4 and 5.<sup>16</sup> Kentucky Power will also provide a Monthly Economic Development Credit to M C Mining, which is designed to encourage the investment of capital needed for the new mining operation to open.<sup>17</sup>

13. The Special Contract's Total Capacity Reservation is 9,000 kW.<sup>18</sup> M C Mining has designated the first 2,500 kW of the Total Capacity Reservation as the Firm Service Capacity Reservation, which is not subject to interruption as specified in Tariff C.S.-I.R.P.<sup>19</sup> The remaining 6,500 kW has been designated as interruptible.<sup>20</sup> The Company is not obligated to supply capacity in excess of 110% of the Total Capacity Reservation, or 9,900 kW, except by mutual written agreement of the parties.<sup>21</sup>

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<sup>16</sup> **EXHIBIT 2** at § 4.1, 4.5, 7.3.

<sup>17</sup> *Id.* at Addendum 2, § V.

<sup>18</sup> *Id.* at § 3.1.

<sup>19</sup> *Id.* at § 3.2.

<sup>20</sup> *Id.* at § 3.3.

<sup>21</sup> *Id.* at § 3.4.

14. The Special Contract's rates and terms as proposed cover all of the variable costs associated with serving M C Mining, contribute to fixed costs, and will not adversely impact the rates of other customers. Rather, as detailed in the Direct Testimony of Company Witness Ranie K. Wohnhas, M C Mining's expected contribution to the Company's fixed costs under the Special Contract will benefit all customers and the Company.

15. In exchange for the Monthly Economic Development Credit that M C Mining will receive, and other terms set forth in the Special Contract, M C Mining also has committed to supporting the Company in the Company's economic development and diversification efforts in eastern Kentucky.<sup>22</sup> Specifically, M C Mining has agreed to work with Kentucky Power to raise the profile of the region, promote the coal industry, promote economic growth, and attract new investment to the region.<sup>23</sup> This includes the Company's efforts to promote an aerospace and defense corridor in central Appalachia and showing that the coal industry supports the greater diversification of the economy in central Appalachia.<sup>24</sup>

16. The Special Contract contains provisions to protect the Company and its other customers.<sup>25</sup> These provisions enable the Company to modify the agreement's interruptible service provisions should that be necessary in order for the Company and Customer to continue to qualify for and benefit from the PJM Load Management Demand Response Program, and for the Company to comply with PJM Demand Response requirements.<sup>26</sup> The Special Contract contains provisions permitting the Company to suspend payment of Monthly Economic Development

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<sup>22</sup> *Id.* at Addendum 2, § IX.

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.* at § 8.1; Direct Testimony of Ranie K. Wohnhas at 12, *In The Matter Of: The Electronic Application Of Kentucky Power Company For Approval Of A Contract For Electric Service With M C Mining, LLC*, Case No. 2019-00124 (Ky. P.S.C. Filed May 1, 2019) ("Wohnhas Direct").

<sup>26</sup> **EXHIBIT 2** at § 4.3, 4.13; Wohnhas Direct at 12.

Credits if the new mine is not completed and placed in operation by January 1, 2021, and requiring M C Mining to repay Monthly Economic Development Credits if M C Mining suspends development of the new mine.<sup>27</sup> Finally, M C Mining's direct parent, Alliance Coal, LLC, will guarantee the Special Contract's financial terms on M C Mining's behalf.<sup>28</sup>

17. Subject to Commission approval of the Special Contract, the Special Contract will become effective on the first billing month following Commission approval of the agreement.<sup>29</sup> The Special Contract will have an initial term of approximately 14 years and will terminate May 31, 2033.<sup>30</sup>

#### **KENTUCKY POWER'S REQUEST FOR APPROVAL OF SPECIAL CONTRACT**

18. The facts upon which this Application is based are set forth generally in paragraphs 1 through 17 above. Pursuant to KRS 278.160 and 807 KAR 5:011 Section 13, Kentucky Power requests approval to file, and Commission approval of, the Special Contract.

19. The Special Contract is being filed with the Commission pursuant to the terms of Tariff C.S. – Coal<sup>31</sup> and because it sets out rates, charges, or conditions not currently included in Kentucky Power's general tariffs.

20. The Special Contract is fair, just, and reasonable, and it will benefit customers, residents in the Company's service territory, the entire eastern Kentucky region, M C Mining, and Kentucky Power.

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<sup>27</sup> **EXHIBIT 2** at Addendum 2, § VII, VIII; Wohnhas Direct at 12.

<sup>28</sup> **EXHIBIT 2** at § 6.5; Wohnhas Direct at 12.

<sup>29</sup> **EXHIBIT 2** at § 7.1.

<sup>30</sup> *Id.* at § 7.2.

<sup>31</sup> P.S.C. Ky. No. 11 1<sup>st</sup> Revised Sheet No. 11-1, Conditions of Service.

**THE MOTION FOR CONFIDENTIAL TREATMENT**

21. Addendum 2 to the Special Contract contains information that is confidential, proprietary, and competitively sensitive. That information is redacted in the public version of **EXHIBIT 2** to this Application. In accordance with Sheet 11-1 of Tariff C.S.-Coal the confidential portions of the Special Contract are the subject of the Motion for Confidential Treatment the Company is filing contemporaneously with this Application.

**EXHIBITS AND TESTIMONY**

22. The exhibits and testimony listed in the Appendix to this Application are attached to and made a part of this Application.

**COMMUNICATIONS**

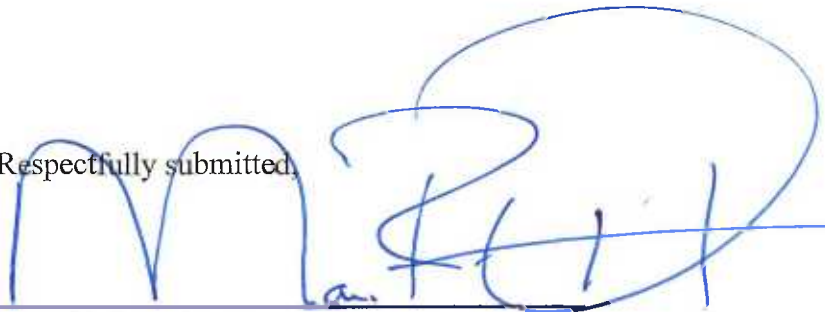
23. Kentucky Power respectfully requests that communications in this matter be addressed to the e-mail addresses identified on Kentucky Power's April 11, 2019 Notice of Election of Use of Electronic Filing Procedures.

WHEREFORE, Kentucky Power Company respectfully requests that the Commission issue an Order:

- (1) Approving the Special Contract;
- (2) Granting the Company's Motion for Confidential Treatment filed herewith; and
- (3) Granting any and all other relief to which Kentucky Power may be entitled.



Respectfully submitted,



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COUNSEL FOR KENTUCKY POWER  
COMPANY

APPENDIX

Exhibits

EXHIBIT 1

Kentucky Power Company's April 3, 2019  
Certificate of Authority

EXHIBIT 2

Contract for Electric Service  
Between Kentucky Power Company and  
M C Mining, LLC

Testimony

DIRECT TESTIMONY OF RANIE K. WOHNHAS

**Commonwealth of Kentucky**  
**Alison Lundergan Grimes, Secretary of State**

Alison Lundergan Grimes  
Secretary of State  
P. O. Box 718  
Frankfort, KY 40602-0718  
(502) 564-3490  
<http://www.sos.ky.gov>

**Certificate of Existence**

Authentication number: 214355  
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Alison Lundergan Grimes, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

**KENTUCKY POWER COMPANY**

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 21, 1919 and whose period of duration is perpetual.

I further certify that all fees and penalties owed to the Secretary of State have been paid; that Articles of Dissolution have not been filed; and that the most recent annual report required by KRS 14A.6-010 has been delivered to the Secretary of State.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Official Seal at Frankfort, Kentucky, this 3<sup>rd</sup> day of April, 2019, in the 227<sup>th</sup> year of the Commonwealth.



*Alison Lundergan Grimes*  
Alison Lundergan Grimes  
Secretary of State  
Commonwealth of Kentucky  
214355/0028317

**CONTRACT FOR  
ELECTRIC SERVICE  
BETWEEN KENTUCKY POWER COMPANY  
AND M C MINING, LLC.**

This Contract for Electric Service (“Contract”) is entered into by and between Kentucky Power Company, a Kentucky corporation (the “Company”), and M C Mining, LLC (the “Customer”), a Delaware limited liability company and Alliance Coal, LLC (“Parent Entity”), a Delaware limited liability company, as of the date this Contract is last signed.

**RECITALS**

1. The Company is a corporation, organized and existing under the laws of the Commonwealth of Kentucky, which owns and operates facilities for the generation, transmission and distribution of electric power and energy in the Commonwealth of Kentucky and is a member of the integrated American Electric Power (“AEP”) System.

2. The Customer is a limited liability company, organized and existing under the laws of the State of Delaware, with operations near Pikeville, Kentucky. The Customer intends to open a new mine located in Pike County, Kentucky.

3. The Company’s service territory and the entire eastern Kentucky region is struggling economically and is in need of jobs for the citizenry.

4. The Company provides the Customer all of its electric energy under contract dated April 26, 2017, Account Number: 0349000067 (the “IRP Contract”).

5. To facilitate economic development within the Company’s service territory and, through the operation of the Customer’s new mining facility in eastern Kentucky, to provide benefits to all customers within said territory through the spreading of fixed costs over a larger demand market, the Company agrees to provide energy to Customer under the terms and conditions contained in this Contract, subject to approval by the Public Service Commission of Kentucky.

6. In recognition of the need for the efficient use of existing utility generation and transmission facilities, the Company and Customer agree to the special economic development rate design contained in Addendum 2 to this Contract.

7. In recognition of the partnership between Kentucky coal operations and Kentucky Power jointly rebuilding and diversifying the economy in eastern Kentucky, and the Commission approved strategy of working together to find alternative and creative opportunities for coal operations in the region through special contracts filed with the Commission, Customer and Company have developed this Contract.

8. The service the Company will provide Customer pursuant to this Contract will provide benefits to the Customer, the Company, the Company's other customers, and the Commonwealth of Kentucky.

**NOW THEREFORE**, in consideration for the promises and the mutual covenants herein contained, and subject to the terms and conditions herein contained, the Company and the Customer agree as set forth below.

## **AGREEMENT**

### **ARTICLE 1 Definitions**

1.1 Whenever used in this Contract, the following terms shall have the meanings set forth below, unless a different meaning is plainly required by the context:

- A. "Annual Non-Compliance Charge" shall be defined as a charge assessed as a result of the Customer's failure to perform its obligations pursuant to Article 5 of this Contract.
- B. "Capacity Performance DR Product Option" shall be defined as specified in Article 4.6, inclusive of any further details as specified by PJM in its Tariffs

and Operations Manual or revisions made by PJM in order for the Company to maintain compliance with PJM Capacity Market rules.

- C. “Commission” shall mean the Public Service Commission of Kentucky, the regulatory agency having jurisdiction over the retail electric service of the Company in Kentucky, including the electric service covered by this Contract or any successor thereto.
- D. “Contract” shall mean this Contract for electric service between the Company and the Customer, as the same may, from time to time, be amended.
- E. “Customer” shall mean M C Mining, LLC.
- F. “Customer Communications System” (“CCS”) shall mean the computerized system allowing the exchange of information between the Company and the Customer.
- G. “Delivery Year” (“DY”) shall mean the PJM regional transmission organization’s capacity delivery year beginning June 1 of each year, ending on May 31<sup>st</sup> of the following year.
- H. “Kentucky Power System” shall mean the integrated, interconnected electric system operated and owned by Kentucky Power Company.
- I. “Mandatory Interruption” shall be defined as the Company’s request for mandatory curtailments of the Customer’s Interruptible Capacity Reservation when i) a Pre-Emergency or Emergency Mandatory Load Management Reduction Action has been issued by PJM, based upon the applicable PJM DR program and in accordance with the PJM Open Access

Transmission Tariff (OATT) and PJM Operating Manuals, ii) in the sole judgment of the Company, an emergency condition consistent with the North American Electric Reliability Corporation (NERC) Reliability Standards and/or good utility practice exists on the AEP East System pursuant to the AEP System Emergency Operating Plan or for system integrity purposes.

- J. “Net CONE” shall be defined as: the Net Cost of New Entry for the PJM Region computed as the gross Cost of New Entry for the PJM Region minus the Net Energy & Ancillary Services (E&AS) Revenue Offset for the PJM Region.
- K. “Non-Compliance Demand” shall be defined as: the maximum amount by which the customer’s actual metered demand during a Mandatory Interruption exceeds the Firm Service Capacity Reservation established in Article 3.
- L. “Off-Peak Period” shall be as defined in Tariff I.G.S. The current Off-Peak Period is defined as between 9:00 PM to 7:00 AM, local time, for all weekdays, Monday through Friday, and all hours of the day on Saturdays and Sundays.
- M. “On-Peak Period” shall be as defined in Tariff I.G.S. The current On-Peak Period is defined as between 7:00 AM and 9:00 PM, local time, for all weekdays, Monday through Friday.
- N. “Parties” shall mean the Company and the Customer, collectively.
- O. “Party” shall mean either the Company or the Customer, individually.

- P. “PJM” shall mean the PJM Interconnection, L.L.C. regional transmission organization.
- Q. “Tariff C.S.-I.R.P.” shall mean the Company’s Contract Service – Interruptible Power Tariff, or any successor or amendment thereto, as approved by the Commission.
- R. “Tariff I.G.S.” shall mean the Company’s Industrial General Service Tariff, or any successor or amendment thereto, as approved by the Commission.

1.2 Unless the context plainly indicates otherwise, words importing the singular number shall be deemed to include the plural number (and vice versa). Terms such as “hereof,” “herein,” “hereunder” and other similar compounds of the word “here” shall mean and refer to the entire Contract rather than any particular part of the same, unless otherwise specified. Certain other definitions, as required, appear in subsequent parts of this Contract.

## **ARTICLE 2**

### **Delivery and Delivery Point**

2.1 Subject to the terms and conditions specified herein, the Company agrees to furnish to the Customer, during the term of this Contract, and the Customer agrees to take and pay for, all of the electric power and energy that shall be required by the Customer for consumption at the premises located at Meta, Mouth of Scott’s Branch of John’s Creek in Pike County, Kentucky (the “Facility”).

2.2 The Delivery Point for electric power and energy delivered hereunder shall be Customer’s 69 kV Substation from Structure # 1033-330.

2.3 The Customer will provide any substation and transformation equipment and any other facilities including real property required to take delivery of the electric service to be provided by the Company under this Contract at the voltage and at the Delivery Point designated herein.



2.4 The electric energy delivered by the Company shall be three-phase alternating current having a frequency of approximately 60 cycles per second at approximately 69,000 volts and shall be delivered at the Delivery Point specified in Article 2.2. The electric energy shall be delivered and maintained reasonably close to constant voltage and frequency, as required by Company tariffs, and shall be measured by meters owned and installed by the Company and located at the Company's 69 kV Scott Branch Metering Station. The Company shall have the right to enter the substation to read and maintain its meters.

### **ARTICLE 3**

#### **Capacity Reservations and Designation of Firm Service**

3.1 The Total Capacity Reservation contracted for by the Customer is hereby fixed at 9,000 kW. The Customer may request a change to the Total Capacity Reservation by providing written notice to the Company one year in advance of the date the requested change is proposed to be effective. The Parties may reduce the one year written notice requirement by mutual written agreement. Any change to the Total Capacity Reservation is subject to conditions as determined by the Company, such as the availability and cost of incremental Capacity from the Company, and to the receipt of any necessary regulatory approvals.

3.2 The Customer designates the first 2,500 kW of the Total Capacity Reservation as the Firm Service Capacity Reservation, not subject to interruption as specified in Tariff C.S.-I.R.P.

3.3 The Interruptible Capacity Reservation shall be the remaining 6,500 kW for the On-Peak Period and 6,500 kW for the Off-Peak Period, which is equal to the Total Capacity Reservation less the Firm Service Capacity Reservation.

3.4 The Customer's Metered Demand shall not exceed, and the Company shall not be required to supply capacity in excess of, one hundred ten percent (110%) of the Total Capacity Reservation, except by mutual written agreement of the Parties.

**ARTICLE 4**  
**Interruptible Service – Capacity Product**

4.1 Credits will be provided under this Contract for Interruptible Capacity Reservation that qualifies under PJM's rules as capacity for the purpose of meeting the Company's FRR/RPM obligation. In accordance with Tariff C.S.-I.R.P, the credits shall be in the amount of \$3.68 per kW or the then properly designated current Interruptible Capacity Reservation per month (roughly \$121/MW-day). This credit applies to the difference between monthly On-Peak billing demand under Tariff I.G.S. and the designated Firm Service Capacity Reservation.

4.2 The Customer's Interruptible Capacity Reservation under this Contract will be enrolled in the Base Capacity Demand Response Product for DY 19/20 in the PJM Load Management Demand Response Program ("PJM DR Program") by the Company. The Company and Customer agree that, as of the date of this Contract, the Base Capacity Demand Response Product currently provides the most operationally flexible and viable option within the PJM DR Program and is feasible for the Customer and Company. In future DYs, the Company and the Customer will endeavor on an annual basis to discuss available options and enroll the Customer in the most operationally flexible, viable Demand Response Product that is feasible for the Customer and Company.

4.3 The Company reserves the right to make changes to Article 4 of this Contract, as appropriate and in order to allow both the Company and the Customer to continue to qualify for, and benefit from, the PJM DR Program, or otherwise.

4.4 In consideration for the credits described in Article 4.1, the Company reserves the right to call for Mandatory Interruptions of the Customer's Interruptible Capacity Reservation.

4.5 The Company will endeavor to provide as much advance notice as possible of a Mandatory Interruption under this Contract. However, the Customer is currently approved for a PJM exception request and, consequently, the Customer's Interruptible Capacity Reservation shall be curtailed within one hundred and twenty (120) minutes. The customer shall annually provide documentation by March 1st to the Company supporting the necessity of the exception request in accordance with the PJM OATT and PJM Operating Manual 18: PJM Capacity Market. If at any time, PJM denies a subsequent exception request submitted by the Customer or, if at any time, PJM withdraws existing approval of an exception request submitted by the Customer, the Customer shall be permitted to opt-out of Tariff C.S.-I.R.P., or other tariff then utilized by the Customer, and the Company and the Customer shall agree on an alternative tariff, under which the Customer may be billed. Such opt-out by the Customer and the selection of an alternative tariff shall not impact or negate the ability of the Customer to receive Economic Development Credits provided for pursuant to the Contract and its Addenda, hereto.

All Mandatory Interruptions will apply for the DY, which is defined by PJM as June 1 through May 31 of the following calendar year.

4.6 The Customer shall be subject to Mandatory Interruptions for the Demand Response Product Option chosen for each delivery year, and as selected by the Company and the Customer pursuant to Article 4.2, above. As further noted in Article 4.2 above, for DY 19/20 the Customer's Interruptible Capacity Reservation under this Contract will be enrolled in the Base Capacity Demand Response Product of the PJM DR Program by the Company and shown, in brief, below:

DEMAND RESPONSE CAPACITY PRODUCT OPTIONS BEGINNING JUNE 1, 2019

<u>Product Type</u>	<u>Curtailement Availability</u>	<u>Maximum Number of Curtailments</u>	<u>Hours of Day Required to Respond</u>	<u>Maximum Duration of Curtailments</u>
Base Capacity Demand Resource (2019/20 DY only)	Any day during June – September of DY	Unlimited	10 AM – 10 PM	10 Hours
Capacity Performance Demand Resource (Effective 2019/20)	Any day during DY (unless on an approved maintenance outage during October – April)	Unlimited	June – October and following May of DY (10 AM – 10 PM) November – April (6AM – 9PM)	No Limit

The Company will notify the Customer of Mandatory Interruptions through the CCS. The Customer is ultimately responsible for receiving and acting upon a Mandatory Interruption notification from the Company. The Customer is not responsible for non-compliance with a PJM event if the Company fails to issue a curtailment notification or otherwise properly provide notice of a Mandatory Interruption pursuant to the terms of this Contract and the Customer’s then existing, and approved, PJM exception request.

The Customer shall own and maintain all computer hardware, software and communication equipment required to meet the specifications of a Customer communication system or successor thereto. The Customer is solely responsible for receiving and acting upon Mandatory Interruptions notices from the company. The Company’s current system requires the ability to access the internet to set up the account and allows the Customer to designate multiple entities to receive notification.

During each delivery year, the Company will conduct a test and verify the Customer’s ability to curtail as required by PJM. However, if a Mandatory Interruption is called by PJM prior to the test, then the Mandatory Interruption shall be considered the test for the delivery year. The

Company reserves the right to re-test the Customer if the Company does not achieve the minimum compliance testing standards as required by PJM. Additionally, the Company reserves the right to retest should the Customer fail to comply during a test. These tests shall be conducted for one hour on a weekday between Noon and 8:00 p.m., Eastern Time, from June 1 through September 30 during the DY.

4.7 If the Customer fails to comply with the provisions of curtailment under this Contract, either during testing or a Mandatory Interruption, the Company and the Customer will, in addition to exercising any other rights or taking any other actions authorized in this Contract, discuss what steps the Customer will take to comply during future events.

4.8 If the Customer fails to interrupt load in connection with a Mandatory Interruption, the Company further reserves the right to (a) interrupt the Customer's entire load if necessary to address the existing emergency condition; and (b) if the Customer fails to interrupt load in connection with a Mandatory Interruption twice during any twelve (12) month period, discontinue service to the Customer under this Contract.

4.9 If a new peak demand is set by the Customer in the hour following a Mandatory Interruption due to the Customer resuming the level of activity prior to the Mandatory Interruption, the Customer may request, in writing, that the Customer's billing demand under this Contract be adjusted to disregard that new peak. The Company will promptly evaluate all such requests and approve requests in its discretion, provided such requests are reasonable. In specific circumstances and subject to reasonable conditions, the Company may approve requests in advance.

4.10 By March 1 of each year, the Customer shall re-nominate the Interruptible Capacity Reservation for the upcoming delivery year, except that the cumulative reductions over the life of the addendum shall not exceed 20% of the original Interruptible Capacity Reservation of 6,500 kW. If no re-nomination is received by March 1, the prior year's Interruptible Capacity Reservation shall apply for the forthcoming contract year of June 1 through May 31. Any increases in the Interruptible Capacity Reservation shall be subject to availability.

4.11 The Customer shall own and maintain all hardware, software and communication equipment required to meet the specifications of the Company's communication system. The Customer is solely responsible for receiving and acting upon Mandatory Interruption notices from the Company.

4.12 NO RESPONSIBILITY OR LIABILITY OF ANY KIND SHALL ATTACH TO OR BE INCURRED BY THE COMPANY, ANY AFFILIATE, OR THE AEP SYSTEM FOR, OR ON ACCOUNT OF, ANY LOSS, COST, EXPENSE, OR DAMAGE CAUSED BY OR RESULTING FROM, EITHER DIRECTLY OR INDIRECTLY, ANY MANDATORY INTERRUPTION UNDER THE PROVISIONS OF THIS CONTRACT, PROVIDED THAT TIMELY AND PROPER NOTICE WAS PROVIDED TO THE CUSTOMER, BASED UPON THE PROVISIONS OF THIS AGREEMENT.

4.13 This Article may be modified as necessary to allow the Company to maintain compliance/qualification with PJM requirements for a Demand Response capacity resource in accordance with the PJM OATT and PJM Operating Manuals. If any such modification results in the Customer no longer being able to physically comply with PJM requirements, the Customer will provide the Company with documentation of the physical constraint and the Customer shall be permitted to opt-out of Tariff C.S.-I.R.P., or other tariff then utilized by the Customer, in favor of

an alternative tariff under which the Customer may be billed. Such opt-out by the Customer and the selection of an alternative tariff shall not impact or negate the ability of the Customer to receive Economic Development Credits provided for pursuant to this Contract and its Addenda, hereto. Further, the Customer agrees to work with the Company to satisfy any obligations for the remainder of the then-current Delivery Year.

**ARTICLE 5**  
**Non-Compliance**

5.1 Charges for non-compliance under the Base Capacity Product Option (during the 2019/2020 DY) described in Article 4 will be based on the Customer's Non-Compliance Demand which reflects any failure by the Customer to comply fully with requests for Mandatory Interruption. The Annual Non-Compliance Charge shall be equal to the product of the average Non-Compliance Demand and the Curtailment Demand Credit (as defined in the PJM DR Program) multiplied by 12.

In the event that the Base Capacity Product Non-Compliance Charge can be determined prior to the end of the DY and is greater than zero, such charge shall be assessed as a uniform offset to the monthly Demand Credit for the remaining months of the DY. If the DY has ended, the Annual Non-Compliance Charge shall be assessed as a one-time charge. Upon request, the Company may, but is not obligated, to allow payment of such one-time charge over a period not to exceed twelve (12) months, including interest. In no event shall the Annual Non-Compliance Charge exceed the sum of the Customer's monthly credits for the DY under the PJM DR Program.

5.2 Beginning June 1, 2020 for the Capacity Performance DR Product Option, the Non-Compliance Rate in \$/MWh will be equal to the product of Net CONE (\$/MW-day) as published by PJM and the number of days in the DY (365 or 366) divided by 30. The Monthly Non-Compliance Charge shall be equal to the product of the Non-Compliance Energy and the Non-

Compliance Rate. The sum of the Monthly Non-Compliance Charges may exceed the sum of the Customer's monthly credits for the DY under the PJM DR Program.

5.3 If the Customer fails to interrupt load as requested by the Company, or does not interrupt sufficient load up to the amount of the Customer's Interruptible Capacity Reservation as stated in Article 4.6 for the mandatory annual Load Management testing in PJM, and the Company is assessed a Load Management Test Failure charge by PJM, the Customer shall be responsible for reimbursement to the Company for the Load Management Test Failure charge associated with the Customer's non-compliance.

## **ARTICLE 6**

### **Billing**

6.1 The Customer's Metered Demand shall be determined each month as the greater of the On-Peak Demand and the Off-Peak Demand for the month. The On-Peak Demand during each month is the single highest 15-minute integrated peak in kW as registered by a demand meter during the On-Peak Period. The Off-Peak Demand during each month is the single highest 15-minute integrated peak in kW as registered by a demand meter during the Off-Peak Period.

6.2 The Customer agrees to pay for all electric service supplied hereunder in accordance with the following provisions:

A. The Monthly Firm Service and Energy Charges shall be computed in accordance with Tariff I.G.S., including all applicable adjustment clauses, riders and surcharges.

B. The Monthly Interruptible Service Credits shall be computed in accordance with Tariff C.S.-I.R.P., including all applicable adjustment clauses, riders and surcharges.

C. Interruptible Service Non-Compliance and Load Management Test Failure Charges shall be computed in accordance with Article 5.3.



D. The Monthly Economic Development Credits shall be computed in accordance with Contract Addendum 2.

6.3 The Monthly Bill shall be the sum of the following:

- A. The Monthly Firm Service and Energy Charges; and
- B. The Monthly Interruptible Service Credits; and
- C. The Interruptible Service Non-Compliance and Load Management Test Failure Charges; and
- D. The Monthly Economic Development Credits; and
- E. Any applicable taxes and franchise fees.

6.4 Bills computed under this Contract are net if the account is paid in full within fifteen (15) days of the date of the bill. On accounts not so paid, an additional charge of five percent (5%) of the unpaid balance will be made. Unless otherwise stated in this Contract, the standard billing and payment provisions of Tariff I.G.S. shall apply.

6.5 The Customer has established a good payment history over many years with the Company, this is a factor in the establishment of the Contract. Alliance Coal, LLC, the Parent Entity, agrees to guarantee the financial terms of the Customer for this Contract.

#### **ARTICLE 7** **Effective Date and Term of Contract**

7.1 The Effective Date of this Contract shall be the first day of the first billing month following the approval of this Contract by the Commission. In no event shall this Contract become effective without the approval of this Contract by the Commission as required by Article 9.2.

7.2 This Contract shall be for an initial term of approximately fourteen (14) years. The term shall commence on the Effective Date as established under Article 7.1 and continue through May 31, 2033. Upon the Effective Date, this Contract cancels and supersedes all previous

agreements, including the IRP Contract, relating to the purchase by Customer and sale by Company of electric energy to Customer at Customer’s premises as referenced in Article 2.1.

7.3 The interruptible service provisions of this contract, included in, Article 3, Article 4 and Article 5 (the “Interruptible Service Provisions”) shall remain in effect until either: (a) the term of the Contract expires; (b) either Party provides one (1) year written notice on or before March 1 of any calendar year of its intention to discontinue receiving electrical service under the terms of the Tariff C.S. – I.R.P.; or (c) such conditions occur or exist, as provided for under this Contract, which permit either the Company or the Customer to opt-out of the Tariff C.S.-I.R.P. in favor of an alternative tariff. Written notice deadlines and the effective date of end of service under Tariff C.S. – I.R.P. through March 1, 2033 are as follows:

<u>Written Notice Deadline</u>	<u>Effective Date of End of Service under Tariff C.S. – I.R.P.</u>
March 1, 2019	June 1, 2020
March 1, 2020	June 1, 2021
March 1, 2021	June 1, 2022
March 1, 2022	June 1, 2023
March 1, 2023	June 1, 2024
March 1, 2024	June 1, 2025
March 1, 2025	June 1, 2026
March 1, 2026	June 1, 2027
March 1, 2027	June 1, 2028
March 1, 2028	June 1, 2029
March 1, 2029	June 1, 2030
March 1, 2030	June 1, 2031
March 1, 2031	June 1, 2032
March 1, 2032	June 1, 2033

7.4 If generally available tariffs providing for interruptible service comparable to the service provided herein are approved by the Commission during the term of this Contract, then the Company and the Customer may, upon mutual agreement, take steps to transition the Customer’s service to such tariffs and modify this Contract accordingly.

**ARTICLE 8**  
**Service Conditions**

8.1 Each Party shall exercise reasonable care to maintain and operate, or to cause to be maintained and operated, their respective facilities in accordance with good engineering practices.

8.2 To the extent not expressly modified by this Contract, the Company's Terms and Conditions of Service, as filed with the Commission, including any amendments thereto, are incorporated by reference and made a part of this Contract. The Customer acknowledges receipt of the currently approved Terms and Conditions of Service. In the event of a conflict between explicit provisions of this Contract and the provisions of the Company's Terms and Conditions of Service, the provisions of this Contract shall control.

8.3 In addition to the interruptible related provisions set forth in Article 3, Article 4 and Article 5, any service being provided to the Customer under this Contract may be interrupted or reduced (a) by operation of equipment installed for power system protection; (b) after adequate notice to and consultation with the Customer for routine installation, maintenance, inspection, repairs, or replacement of equipment; or (c) when, in the Company's sole judgment, such action is necessary to: (i) preserve the integrity of, or to prevent or limit any instability or material disturbance on, or to avoid a burden on, the Kentucky Power system or an interconnected system; (ii) preserve personal or public safety; or (iii) to protect property.

8.4 The Company reserves the right to disconnect from the Kentucky Power System the Customer's conductors or apparatus without notice when, in the exercise of reasonable care, the Company determines that it is necessary in the interest of preserving or protecting life and/or property.

8.5 During the term hereof, the Customer's Facility shall not purchase electric power from any source other than from the Company. This provision does not apply to emergency generation not designed to operate in parallel with the Kentucky Power System.

8.6 The Customer shall notify the Company in advance of any changes to be made to the Customer's Facility having the potential of materially affecting the Kentucky Power System or other facilities interconnected to the Kentucky Power System.

8.7 The Customer shall notify the Company of any changes to its operations that impair the Customer's ability to interrupt.

8.8 If the Customer and the Company agree that changes in service conditions under this Article preclude the Customer from meeting its obligations under this Contract, then the Contract may be modified by mutual agreement.

8.9 The Customer shall adhere to Addendum 1 to this Contract regarding voltage flicker criteria and harmonic distortion criteria ("Flicker/Harmonics Addendum"). The Flicker/Harmonics Addendum is incorporated by reference and made a part of this Contract.

## **ARTICLE 9**

### **Regulatory Authorities**

9.1 The Parties recognize this Contract is subject to the jurisdiction of the Commission, and is also subject to such lawful action, as any regulatory authority having jurisdiction shall take with respect to the provision of services under the Contract. The performance of any obligation of either Party shall be subject to the receipt from time to time as required of such authorizations, approvals or actions of regulatory authorities having jurisdiction as shall be required by law.

9.2 The Company and the Customer agree that this Contract reflects the steps required to ensure adequate service to the Customer and that the Company will file this Contract with the Commission. This Contract is expressly conditioned upon the issuance of a final and non-

appealable order by the Commission approving the Contract without change or condition. In the event that the Commission does not approve this Contract without change or condition, then this Contract shall not become effective unless the Parties agree otherwise in writing. It is the intent of the Parties that the issuance of an order by the Commission approving the Contract without change or condition is a prerequisite to the validity of this Contract. To the extent a subsequent Commission order alters the terms of this Contract, this Contract shall terminate unless within thirty days of the Commission Order the Parties agree in writing otherwise. In the event of a termination of the Contract due to subsequent Commission order, the Customer shall take service under the appropriate Company tariff.

#### **ARTICLE 10 Assignment**

10.1 This Contract shall inure to the benefit of and be binding upon the successors and assigns of the Parties.

10.2 This Contract shall not be assigned by either Party, other than to an affiliate, subsidiary, or parent company, without the written consent of the other Party, which shall not be unreasonably withheld. Either party's consent to one or more assignments shall not relieve the other party or its assignees, as the case may be, from the necessity of obtaining the written consent to other and/or additional assignments.

10.3 Any assignment by one Party to this Contract shall not relieve that Party of its financial obligation under this Contract unless the other Party so consents in writing.

#### **ARTICLE 11 General**

11.1 Any waiver at any time of any rights as to any default or other matter arising under this Contract shall not be deemed a waiver as to any other proceeding or subsequent default or

matter. Any delay, excepting the applicable statutory period of limitation, in asserting or enforcing any right hereunder shall not be deemed a waiver of such right.

11.2 Except as set forth in Article 8, in the event that any of the provisions, or portions thereof, of this Contract is held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.

11.3 All terms and stipulations made or agreed to regarding the subject matter of this Contract are completely expressed and merged in this Contract, and no previous promises, representations or agreements made by the Company’s or the Customer’s officers or agents shall be binding on either Party unless contained herein.

11.4 All notices permitted or required to be given hereunder shall be in writing and shall be delivered by first-class mail to the Company and to the Customer at their respective addresses set forth below. When a notice is mailed pursuant to this paragraph, the postmark shall be deemed to establish the date on which the notice is given:

**If to Company:**

Kentucky Power Company  
 Attention: Director of Regulatory Services  
 855 Central Avenue  
 Ashland, KY 41101

With a Copy To:  
 American Electric Power Service  
 Corporation  
 Legal Department – Regulatory  
 1 Riverside Plaza, 29<sup>th</sup> Floor  
 Columbus, OH 43215

**If to Customer:**

MC Mining, LLC  
 Attention: Maintenance Manager  
 4126 ST HWY 194 W  
 Pikeville, KY 41501

With a Copy To:  
 Alliance Coal, LLC  
 Attention: Legal Department—General Counsel  
 1146 Monarch Street, Suite 350  
 Lexington, KY 40513

**If to the Parent Entity:**

Alliance Coal, LLC  
Attention: Legal Department—General Counsel  
1717 South Boulder Avenue, Suite 400  
Tulsa, OK 74119

With a Copy To:  
Alliance Coal, LLC  
Attention: Legal Department—General Counsel  
1146 Monarch Street, Suite 350  
Lexington, KY 40513

11.5 The rights and remedies granted under this Contract shall not be exclusive rights and remedies but shall be in addition to all other rights and remedies available at law or in equity.

11.6 The validity and meaning of this Contract shall be governed by the laws of the Commonwealth of Kentucky without regard to conflict of law rules.

11.7 This Contract may be executed in counterparts, each of which shall be an original, but all of which, together, shall constitute one and the same Contract.

**ARTICLE 12**  
**Liability and Force Majeure**

12.1 Neither the Company nor the Customer shall be liable to the other for damages caused by the interruption, suspension, reduction or curtailment of the delivery of electric energy hereunder due to, occasioned by or in consequence of, any of the following causes or contingencies, (hereinafter “events of Force Majeure”) including: acts of God, the elements, storms, hurricanes, tornadoes, cyclones, sleet, floods, backwaters caused by floods, lightning, earthquakes, landslides, washouts or other revulsions of nature, epidemics, accidents, fires, failures of facilities, collisions, explosions, strikes, lockouts, differences with workers and other labor disturbances, vandalism, sabotage, riots, inability to secure cars, coal, fuel, or other materials, supplies or equipment from usual sources, breakage or failure of machinery, generating equipment, electrical lines or

equipment, wars, insurrections, blockades, terrorism, war, insurrection, cybersecurity attacks, acts of the public enemy, arrests and restraints of rulers and people, civil disturbances, acts or restraints of federal, state or other governmental authorities, and any other causes or contingencies not within the control of the Party whose performance is interfered with, whether of the kind herein enumerated or otherwise. It is expressly understood and agreed that economic conditions, such as a downturn in the market for the product or products produced at any of the Customer's facilities, do not constitute an event of Force Majeure. Settlement of strikes and lockouts shall be wholly within the discretion of the Party having the difficulty. An event or events of Force Majeure shall not relieve the Company or the Customer of liability in the event of its concurring negligence or in the event of failure of either to use reasonable means to remedy the situation and remove the cause in an adequate manner and with reasonable dispatch. An event or events of Force Majeure shall not relieve either the Company or the Customer from its obligation to pay amounts due hereunder.

12.2 The Company assumes no responsibility of any kind with respect to construction, maintenance, or operation of the electric facilities or other property owned or used by the Customer and shall not be liable for any loss, injury (including death), damage to or destruction of property (including loss of use thereof) arising out of such installation, maintenance or operation or out of any use by the Customer or others, of said energy and/or capacity provided by the Company except to the extent such damage or injury shall be caused by the negligence or willful misconduct of the Company, its agents, or employees. The Customer assumes no responsibility of any kind with respect to construction, maintenance or operation of the electric facilities or other property owned or used by the Company and shall not be liable for any loss, injury (including death), damage to or destruction of property (including loss of use thereof) arising out of such installation, maintenance



or operation except to the extent such damage or injury shall be caused by the negligence or willful misconduct of the Customer, its agents, or employees.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be duly executed the day and year last written below.

KENTUCKY POWER COMPANY

M C MINING, LLC

By Ranie K. Wohl

By Ally D. Broock

Title Mgr. Dir. Regulatory & Finance

Title Vice President - Business Development

Date May 1, 2019

Date May 1, 2019

ALLIANCE COAL, LLC

By Ally D. Broock

Title Vice President - Business Development

Date May 1, 2019

**ADDENDUM 1 TO CONTRACT FOR ELECTRIC SERVICE-Flicker/Harmonics**

This Addendum is entered into this 1st day of May, 2019, by and between **Kentucky Power Company**, hereafter called the Company, and **M C Mining, LLC** or its heirs, successors or assigns, hereafter called the Customer.

**WHEREAS**, the Company's terms and conditions of service contained in the applicable tariffs indicate that the Customer shall not use the electrical service provided for under the terms of the Contract for Electric Service dated May 1, 2019 in a manner detrimental to other customers or in such a way as to impose unacceptable voltage fluctuations or harmonic distortions, and

**WHEREAS**, the Customer anticipates utilizing certain equipment at the service location covered by the Contract that could impose an unacceptable level of voltage flicker or harmonic distortion,

**NOW THEREFORE**, the parties hereby agree as follows:

**I. POINT OF COMPLIANCE** – The point where the Customer's electric system connects to Kentucky Power's system will be the point where compliance with the voltage flicker and harmonic distortion requirements are evaluated.

**II. VOLTAGE FLICKER CRITERIA** – The Company's standards require that the voltage flicker occurring at the Point of Compliance shall remain below the Border Line of Visibility curve on the Flicker Limits Curve contained herein.

The Customer shall design and operate its facility in compliance with the voltage flicker criteria contained in IEEE Standard 1453, "IEEE Recommended Practice for Measurement and Limits of Voltage Fluctuations and Associated Light Flicker on AC Power Systems."

Notwithstanding these criteria, the Customer has certain equipment that it anticipates utilizing at the service location covered by the Contract that could impose a level of voltage flicker above the Border Line of Visibility curve. The Company agrees to permit the Customer to operate above the Border Line of Visibility curve unless and until the Company receives complaints from other customers or other operating problems arise for the Company, provided that the voltage flicker does not exceed the Border Line of Irritation curve shown on the Flicker Limits Curve, whether or not complaints or operating problems occur. By so agreeing, the Company does not waive any rights it may have to strictly enforce its established voltage flicker criteria as measured/calculated in the future. All measurements shall be determined at the Point of Compliance and compliance with these criteria shall be determined solely by the Company.

If the Customer is operating above the Border Line of Visibility curve and complaints are received by the Company or other operating problems arise, or should the Customer's flicker exceed the Border Line of Irritation curve, the Customer agrees to take action, at the Customer's expense, to comply with the Voltage Flicker Criteria. Corrective measures could include, but are not limited to, modifying production methods/materials or installing voltage flicker mitigation equipment necessary to bring the Customer's operations into compliance with the Voltage Flicker Criteria.

If the Customer fails to take corrective action within a reasonable time, not to exceed 90 days, after notice by the Company, the Company shall have such rights as currently provided for under its tariffs, which may include discontinuing service, until such time as the problem is corrected.

**III. HARMONIC DISTORTION CRITERIA** – The Customer shall design and operate its facility in compliance with the harmonic distortion criteria contained in IEEE Standard 519-1992.

The Customer agrees that if the operation of motors, appliances, devices or apparatus results in harmonic distortions in excess of the Company's Harmonic Distortion Criteria, it will be the Customer's responsibility to take action, at the Customer's expense, to comply with such Criteria. If the Customer fails to take corrective action within a reasonable time, not to exceed 90 days, after notice by the Company, the Company shall have such rights as currently provided for under its tariffs, which may include discontinuing service, until such time as the problem is corrected.

**IV. OTHER REQUIREMENTS**

**Compliance Assessment** — To achieve compliance, at least 95% of all recordings within each harmonic measure and 99% within each flicker measure must fall below the applicable limit, i.e., Customer will be in material non-compliance with the Company's Power Quality Requirements if more than 5% of the harmonic voltage and harmonic current recordings and 1% of the flicker recordings exceed the specified limits.

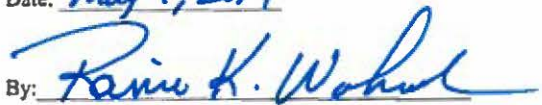
**Electrical Interactions** — If power quality compliance monitoring recordings or analytical studies conducted by the Company indicate likely adverse electrical interactions between the Customer and the Kentucky Power's System, joint efforts will be undertaken by the Parties to determine the nature and extent of the electrical interaction and to resolve, at no expense to the Company, any likely adverse impacts on the performance of Company facilities.

**Kentucky Power Company**

**MC Mining, LLC**

Date: May 1, 2019

By: 

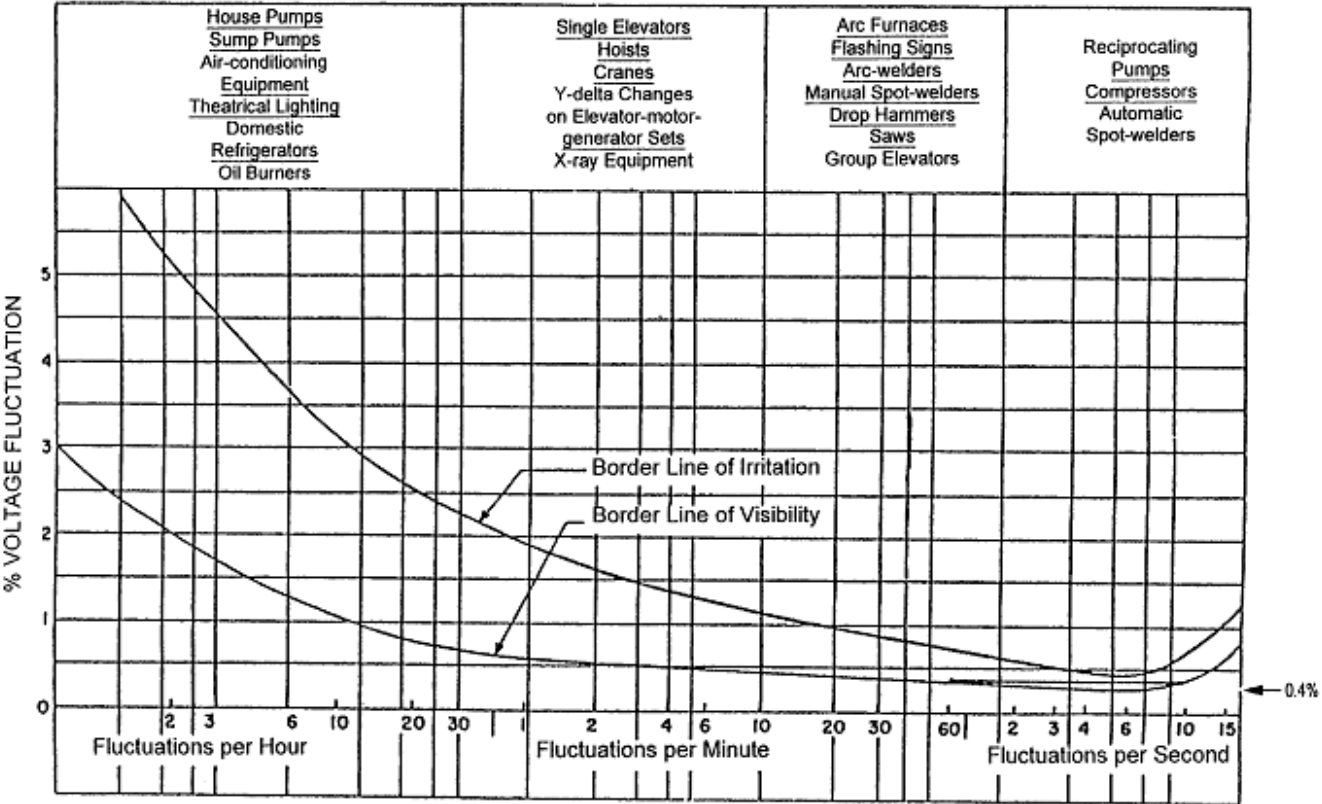
By: 

Title: Vice President - Business Development

Title: Mgr. Dir. Regulatory + Finance

Date: 5/1/2019

Date: may 1, 2019



**ADDENDUM 2 TO CONTRACT FOR  
ELECTRIC SERVICE  
BETWEEN KENTUCKY POWER COMPANY  
AND MC MINING, LLC**

This Addendum supplements the Contract between Kentucky Power Company, a Kentucky corporation (the “Company”), and MC Mining, LLC (the “Customer”), a Delaware limited liability company and Alliance Coal, LLC (“Parent Entity”), a Delaware limited liability company, entered into the 1st day of May, 2019.

I. The Effective Date of this Addendum shall be the first day of the first billing month following the approval of this Addendum by the Commission. In no event shall this Addendum become effective without approval by the Commission.

II. This Addendum shall be for an initial term of approximately fourteen (14) years. The period shall commence on the Effective Date of this Addendum as established under Article I.

III. In no event will Monthly Economic Development Credits under Article V of this Addendum be paid after May 31, 2033.

IV. The Customer is opening a new mine that will utilize the processing system in place at a current meter location through a smart conveyor system. The new mine and the expanded usage of the equipment added to take advantage of the current infrastructure will benefit the local economy by adding jobs and generating tax revenue.

V. In consideration for the new mine and additional infrastructure described in Article IV, the Company will provide Monthly Economic Development Credits to the Customer. Each Monthly Economic Development Credit shall be calculated as the product of (a) [REDACTED]; and (b) the Customer’s actual monthly metered energy. The Monthly Economic Development Credit shall be calculated and provided on a monthly

basis, up to a total of [REDACTED]

per Delivery Year.

VI. The Customer will apply the Monthly Economic Development Credits it receives as a result of this Addendum in a manner to allow the investment of the capital needed now for the new mining operation to open. Therefore, the savings will begin immediately as outlined in this Addendum as a means to seed and secure the investment needed to open the new operations and to build the additional infrastructure.

VII. If the new mine described in Article IV is not completed and placed in operation by January 1, 2021, credits provided under Article V shall be suspended until construction of the new mine is completed and the mine begins commercial operation. Should the new mine be completed after January 1, 2021, the Customer will resume receiving credits in the first full billing month following the completion of the new mine.

VIII. If the Customer suspends development of the new mine, the Customer shall be obligated to repay certain credits provided by the Company to the Customer during the Delivery Year during which the suspension of development of the new mine occurs. The repayment amount shall be calculated by determining the amount spent by the Customer for the development of the new mine in the Delivery Year in which the suspension of development of the new mine occurs and subtracting that amount from the credits provided by the Company to the Customer in the same Delivery Year. In the event the Customer has spent more on the development of the new mine during the Delivery Year during which the suspension of the new mine occurs than the credits provided by the Company to the Customer during the same year, then no repayment obligation shall exist.

The Customer shall have no further obligations or responsibilities for repayment of credits under this Article VIII once development of the mine has been completed and the new mine has engaged in commercial operation.

By no later than July 1<sup>st</sup> of each Delivery Year, the Customer shall provide documentation of the amounts spent in the preceding Delivery Year toward the development of the new mine, provided, however, that the Customer shall have no further obligation to provide such documentation in any Delivery Year after the new mine has engaged in commercial operation.

IX. The Customer and its Parent Entity agree to support the economic development and diversification efforts of the Company in eastern Kentucky. The Company and the Customer will work together and cooperate in ways to help raise the profile of the region, promote the partnership between the Company and the Customer, promote the coal industry, promote economic growth, and attract new investment to the region. This includes the Company's efforts to promote an aerospace and defense corridor in central Appalachia and showing that the coal industry is an ally to greater diversification of the economy in central Appalachia. This Addendum shall not be construed as requiring the Customer or its Parent Entity to provide financial support to such efforts without further agreement of the parties in writing, or to take any action or to support any effort of the Company that the Customer determines is or could be detrimental to the Customer's business or the coal industry generally. If the Company should believe the Customer and/or the Parent Entity has breached this provision, the Company shall provide written notice thereof as provided herein, describing the alleged breach with particularity. Promptly following receipt of such notice, the Customer shall either cure the alleged breach or, if it

disputes the alleged breach, shall provide written notice thereof to the Company and the parties shall, for a period of sixty (60) days after the date of Customer's notice, engage in good faith discussions and negotiations in an attempt to resolve the dispute. If no resolution is reached during such period, then the matter shall be referred to the Commission for review. Customer has the right to void the Addendum if it believes its cooperation in economic development is too burdensome, which if occurring prior to the mine's engagement in commercial operations, shall be deemed a suspension of the development of the new mine for purposes of, and subject to the repayment obligations set forth in, Article VIII.

X. All terms and stipulations made or agreed to regarding the subject matter of this Addendum are completely expressed and merged in this Addendum, and no previous promises, representations or agreements made by the Company's or the Customer's officers or agents shall be binding on either Party unless contained herein.

XI. The rights and remedies granted under this Addendum shall not be exclusive rights and remedies but shall be in addition to all other rights and remedies available at law or in equity.

XII. The validity and meaning of this Addendum shall be governed by the laws of the Commonwealth of Kentucky without regard to conflict of law rules.

XIII. In the event that any of the provisions, or portions thereof, of this Addendum are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or portions thereof, shall not be affected.



IN WITNESS WHEREOF, the Parties hereto have caused this Addendum to be  
duly executed the day and year last written below.

KENTUCKY POWER COMPANY

MC MINING, LLC

By Ranice K. Work

By Walter D. Brock

Title Mgr. Dir. Regulatory + Finance

Title Vice President - Business Development

Date May 6, 2019

Date May 1, 2019

ALLIANCE COAL, LLC

By Walter D. Brock

Title Vice President - Business Development

Date May 1, 2019