

**SETTLEMENT AGREEMENT AND
CONTRACT PURSUANT TO KRS 278.018(6)**

This Settlement Agreement and Contract pursuant to KRS 278.018(6) (the “Agreement”) is entered into this 18th day of October 2019 by and between Louisville Gas and Electric Company (“LG&E”); Meade County Rural Electric Cooperative Corporation (“Meade RECC”), and Big Rivers Electric Corporation (“Big Rivers”) (collectively, the “Parties”).

W I T N E S S E T H:

WHEREAS, pursuant to KRS 278.016 to KRS 278.020 (the “Certified Territories Act”) the Commonwealth of Kentucky is divided into geographical areas within which each retail electric supplier is to provide electric service;

WHEREAS, KRS 278.018 prohibits a retail electric supplier from furnishing, making available, rendering or extending its retail electric service to a consumer for use in electric consuming facilities located within the certified territory of another retail electric supplier, except as otherwise provided in the Certified Territories Act;

WHEREAS, LG&E is a retail electric supplier engaged in the furnishing of retail electric service within its certified territory under Chapter 278 of the Kentucky Revised Statutes;

WHEREAS, Meade RECC, a rural electric cooperative corporation organized pursuant to KRS Chapter 279 and a cooperative member and an owner of Big Rivers, is a retail electric supplier that distributes retail electric power within its certified territory under Chapter 278 of the Kentucky Revised Statutes;

WHEREAS, Big Rivers, a rural electric cooperative corporation organized pursuant to KRS Chapter 279, is a member-owned, not-for-profit, generation and transmission cooperative, owned by three member cooperatives, including Meade RECC, and supplies the wholesale power needs of its member cooperatives;

WHEREAS, the Kentucky Public Service Commission (“Commission”) has on file a territorial boundary map known as “MAUCKPORT, IND.-KY: 24-E-3A” (“Map 24-E-3A”), a copy of which is attached hereto and marked as Exhibit 1;

WHEREAS, Map 24-E-3A contains the following notation: “Future Industrial Loads in the Area Presently Owned Olin Corp. Requiring 34.5 KV or Higher To Be Served by L.G.&E. All Other Loads Below This Requirement To Be Served By Meade R.E.C.C.” (the “Notation”);

WHEREAS, arrows are drawn on Map 24-E-3A from this notation that point to an area that is bounded by yellow lines and the Kentucky-Indiana border (the “Disputed Territory”), which is within and near the Buttermilk Falls Industrial Park in Meade County, Kentucky, and which is the subject of the dispute among the Parties;

WHEREAS, on March 27, 2019, Nucor Corporation (“Nucor”) announced its intention to construct a steel plate mill in the Buttermilk Falls Industrial Park in Meade County, Kentucky;

WHEREAS, a dispute exists among the Parties regarding the provision of retail electric service to the proposed Nucor facility;

WHEREAS, pursuant to the Certified Territories Act, the Parties’ dispute is within the Commission’s exclusive jurisdiction;

WHEREAS, KRS 278.018(6) provides a retail electric supplier may contract with another retail electric supplier for the purpose of allocating territories and consumers between such retail electric suppliers and designating which territories and consumers are to be served by which of said retail electric suppliers;

WHEREAS, the Parties have spent many hours over several months in discussions to reach the terms that form the basis of this Agreement;

WHEREAS, the Parties agree that this Agreement viewed in its entirety, is a fair, just, and reasonable resolution of their dispute, will result in the provision of adequate and reasonable electric service to the Disputed Territory and to Nucor, and will promote the purposes of KRS 278.016;

NOW, THEREFORE, for and in consideration of the promises and conditions set forth herein, the Parties hereby stipulate and agree as follows:

ARTICLE I. MODIFICATION OF TERRITORIAL BOUNDARY MAP

1.1. Modification of Territorial Boundary Map. LG&E and Meade RECC agree to modify Map 24-E-3A by (i) removing the Notation, and (ii) designating the Disputed Territory as Meade RECC's exclusive certified territory, as shown in Exhibit 2 attached to this Agreement, provided, however, that LG&E shall continue to provide electric service to the existing Monument Chemical facility, regardless of changes in ownership, for any service in the Disputed Territory requiring electrical power at 34.5 kV or higher. The Parties agree to mutually take all actions necessary to file and request approval of this Agreement and Exhibit 2 with and from the Commission.

1.2. Consideration in Exchange for Modification of Territorial Boundary Map. In exchange for and in consideration of LG&E's agreement to the modification of the existing Map 24-E-3A shown in Exhibit 2 and as set forth in this Agreement, and to avoid protracted and costly litigation to resolve the territorial dispute, Big Rivers shall pay to LG&E the following value for Meade RECC to have the exclusive right to provide retail electric service in the Disputed Territory, with the exception of service at 34.5 kV and higher to the existing Monument Chemical facility referenced in 1.1 of this Agreement, which LG&E shall continue to serve:

(A) Big Rivers will pay LG&E the sum of [REDACTED] within 30 days of the later of: (i) the Commission approving this Agreement without change or condition and modifying the territorial map as set forth in Exhibit 2; (ii) the Commission approving without change or condition an agreement between Nucor and Meade RECC for the provision of retail electric service to the proposed facility and a related wholesale letter agreement between Meade RECC and Big Rivers (the “Nucor Power Contracts”); and (iii) the Rural Utilities Service (“RUS”) approving without change or condition this Agreement and the Nucor Power Contracts.

(B) Beginning on the first day of January of the year following the start of the commercial operation of the Nucor facility, and thereafter on the first day of January of each following year, but for no more than [REDACTED] years from and including such first annual payment hereunder, Big Rivers will pay LG&E the sum of [REDACTED] so long as Nucor or any other customer(s) other than the Monument Chemical facility is engaging in operations of any kind in the Disputed Territory that require the provision of 34.5 kV or higher retail electric service. In no event shall Big Rivers’ payments under this Section 1.2.B (including the first payment) exceed [REDACTED].

(C) LG&E’s consent to relinquish any right it has to provide retail electric service in the Disputed Territory, excluding service at 34.5 kV and higher to the existing Monument Chemical facility, is expressly contingent upon the receipt of the payment in full referenced in Section 1.2.A of this Agreement. Should Big Rivers fail to make such payment in accordance with this Agreement, LG&E may pursue the rights and remedies available to it at law and equity, including but not limited to, declaring, in its discretion, that this Agreement shall be null and void.

(D) If Nucor (or a Nucor affiliate or successor) fails to locate its proposed facility in the Disputed Territory, no later than January 1, 2023, LG&E will refund any payment made under Section 1.2A of this Agreement without interest within 30 days of Big Rivers' request; this Agreement shall be null and void; and the Parties shall be returned to their respective positions as they existed prior to the execution of this Agreement.

(E) If Big Rivers requests and receives the refund pursuant to Section 1.2.D or LG&E elects as its remedy pursuant to Section 1.2.C that this Agreement shall be null and void, and the Parties shall be returned to their respective positions as they existed prior to the execution of this Agreement.

ARTICLE II. WIRES-TO-WIRES INTERCONNECTION

2.1. LG&E shall accept and evaluate Big Rivers' wires-to-wires interconnection request of June 5, 2019 ("New Interconnection Request"), a copy of which is contained in Exhibit 3 to this Agreement. The Parties agree that, as currently submitted, the New Interconnection Request does not require Big Rivers to obtain transmission service from LG&E and Kentucky Utilities Company ("KU" or collectively with LG&E, "LG&E/KU") to facilitate the New Interconnection Request or to provide the wholesale electric service necessary for Meade RECC to serve the proposed Nucor facility. The Parties agree that nothing in this Agreement constitutes a grant of transmission service by LG&E/KU. To the extent that Big Rivers makes material modifications to the New Interconnection Request or otherwise enters into arrangements, which in either case require transmission service from LG&E/KU, Big Rivers shall request such transmission service from LG&E/KU in accordance with the LG&E/KU open access transmission tariff on file with the Federal Energy Regulatory Commission ("FERC").

2.2. Consistent with existing practice, Big Rivers shall be responsible for the costs of any facilities or projects identified in the LG&E/KU interconnection studies associated with the New Interconnection Request, including any projects identified to mitigate reliability problems and the switching station and associated facilities and equipment (collectively, the “Station”) needed to accommodate the new Big Rivers transmission line from the Otter Creek substation. Big Rivers will fund and construct the Station in accordance with the standards and specifications of LG&E/KU. Big Rivers shall be responsible for obtaining any necessary approvals or releases from its creditors, lenders, or indenture trustee in order to then transfer clear title to the Station and underlying property to LG&E/KU prior to the energization of the Station. LG&E will own, operate and maintain the Station at no cost to Big Rivers. The charges, terms and conditions for the construction of any facilities contemplated by this Section 2.2 shall be commemorated in a separate agreement which shall be filed with FERC.

2.3. Big Rivers shall notify LG&E/KU in writing in advance of any changes to the proposed interconnection from what is described in the New Interconnection Request so that such changes may be evaluated for materiality by LG&E/KU. Big Rivers shall be responsible for the costs of any additional studies, as well as the costs of any facilities or projects identified to accommodate such changes. Any impact on project timing or project costs caused by changes to the New Interconnection Request made by Big Rivers shall be the sole responsibility of Big Rivers.

2.4. The Parties agree to negotiate and execute an amended interconnection agreement (“Amended IA”) among Big Rivers, LG&E/KU and MISO, to be filed at FERC, which will govern the Parties’ respective rights and obligations for the operation of the new point of interconnection between the Parties’ systems (“Point of Interconnection”). The Parties agree

to act in good faith and to use their best efforts to recommend to FERC that the Amended IA be accepted and approved. The Amended IA shall reflect at least the following with respect to the coordination of interconnected operations at the Point of Interconnection:

(A) Big Rivers shall ensure that the Point of Interconnection and the Nucor facility or any other customer(s) served by Meade RECC that is engaging in operations in the Buttermilk Falls Industrial Park in Meade County, Kentucky, both now and in the future, do not adversely affect the reliability or normal operation of the electric systems of LG&E/KU.

(B) LG&E/KU shall have no obligation (i) to operate their system in a manner necessary to provide any minimum level of service to Big Rivers, Nucor, or the Buttermilk Falls Industrial Park or to provide a minimum level of short-circuit capability at the Point of Interconnection; or (ii) to dispatch, operate, or maintain LG&E/KU generation to support the operations of Big Rivers, Nucor, or the Buttermilk Falls Industrial Park.

(C) Subject to the terms of Section 2.3 of this Agreement, other than the facilities or projects identified in the LG&E/KU interconnection studies associated with the New Interconnection Request, including any projects identified to mitigate reliability problems, and the switching station and associated facilities and equipment (collectively, the "Station") needed to accommodate the new Big Rivers transmission line from the Otter Creek substation, the Amended IA shall not include additional obligations for Big Rivers to fund upgrades or modifications on the LG&E/KU electric transmission systems that are necessary to accommodate any modification by LG&E or KU to the LG&E/KU electric transmission systems or generation or both in connection with the Interconnection Request or Point of Interconnection.

(D) Notwithstanding the foregoing, neither Party is relieved from (i) their respective obligations to respond to the operating instruction(s) of its applicable reliability

coordinator or balancing authority in accordance with the reliability standards of the North American Electric Reliability Corporation; (ii) taking such action as is necessary to protect the safety of persons or comply with applicable laws, rules, and regulations pertaining to the safety of persons or property; (iii) using commercially reasonable efforts to operate and maintain the facilities and equipment that are or may be owned, controlled or operated by it or on its behalf; (iv) designing and installing its interconnecting equipment and facilities (including all apparatus and necessary protective devices), in accordance with good utility practice so as to reasonably minimize the likelihood of a disturbance originating on its system or facilities from affecting or impairing the other Party's system or facilities; or (v) modifying operations or facilities as necessary to maintain or restore the reliable operation of the bulk electric system or prevent instability, cascading outages, and uncontrolled separation, including, but not limited to, isolating all or a portion of its system or terminating the interconnection in accordance with the applicable interconnection agreement between the Parties. Nothing contained in this Agreement is intended to relieve either Party of cost responsibility for upgrades to its own electric transmission system caused by its own modification of its own electric transmission system, or the generation or load interconnected thereto. Upon the commencement of interconnected operations at the Point of Interconnection, to the extent that potential future modifications to the electric system of either Party necessitates upgrades to the Point of Interconnection, such upgrades shall be coordinated in accordance with the applicable interconnection agreement between the Parties.

2.5. If FERC does not accept and approve the Amended IA filing as described in Section 2.4 above on or before September 30, 2022, Big Rivers may declare this Agreement null and void, in which case Big Rivers shall notify LG&E of its intent to declare this Agreement null and void and LG&E shall refund without interest all payments made by Big Rivers pursuant to

Article I within 30 days of such notice from Big Rivers, and the Parties shall be returned to their respective positions as they existed prior to the execution of this Agreement.

ARTICLE III. CONFIDENTIALITY

3.1. The Parties hereto agree that the payment amounts contained herein are confidential business information (the “Confidential Information”) and shall keep the Confidential Information confidential; provided, however, that the Parties may disclose the Confidential Information (i) to affiliates, directors, officers, employees, attorneys, consultants, financial advisors, and members who have a bona fide business reason to know the Confidential Information and who are bound by obligations of confidentiality to the Party disclosing such information to them; (ii) in connection with (A) a requirement of law, regulation, rule or order of any governmental, administrative or self-regulatory agency having supervisory authority over such Party or order of any court of competent jurisdiction, or (B) seeking any regulatory or lender approvals of the Agreement, or the transactions contemplated hereunder; or (iii) if such Confidential Information has become public through no fault of the Party wishing to make the disclosure. If a Party is required to disclose any Confidential Information pursuant to sub-clause B above, the other Party shall be promptly notified so that such second Party may request that the first Party seek confidential protection, if reasonably possible, with respect to the Confidential Information with the expense thereof to be borne by such second Party. The Party bound by law, regulation, rule or order shall provide commercially reasonable cooperation to such other Party’s request for confidential protection, but shall not be obligated to undertake commercially unreasonable legal, commercial or regulatory risks, delays or internal costs in such cooperation.

ARTICLE IV. MISCELLANEOUS PROVISIONS

4.1. The Parties hereto agree that the foregoing Agreement represents a fair, just, and reasonable resolution of the issues addressed herein, will result in the provision of adequate and reasonable retail electric service to the Disputed Territory and to Nucor, and request that the Commission approve the Agreement.

4.2. Following the execution of this Agreement, the Parties shall cause the Agreement to be filed with the Commission with a request for consideration and approval of this Agreement by December 20, 2019.

4.3. This Agreement is subject to the acceptance of, and approval by, the Commission and RUS. The Parties agree to act in good faith and to use their best efforts to recommend to the Commission that this Agreement be accepted and approved. The Parties commit to notify immediately any other Party of any perceived violation of this provision so the Party may have an opportunity to cure any perceived violation, and all Parties commit to work in good faith to address and remedy promptly any such perceived violation. In all events, counsel for all Parties will represent to the Commission that the Agreement is a fair, just, and reasonable means of resolving all issues in these proceedings that are the subject of this Agreement, and will clearly and definitively ask the Commission to accept and approve the Agreement as such.

4.4. If the Commission issues an order adopting this Agreement in its entirety and without additional conditions, each of the Parties agrees that it shall file neither an application for rehearing with the Commission, nor an appeal to the Franklin Circuit Court with respect to such order.

4.5. Notwithstanding any other provisions of law, the Agreement between the Parties as herein provided when approved by the Commission shall be valid and enforceable.

4.6. If the Commission does not accept and approve this Agreement in its entirety, then any adversely affected party may withdraw from the Agreement within the statutory periods provided for rehearing and appeal of the Commission's order by: (1) giving notice of withdrawal to all other Parties; and (2) timely filing for rehearing or appeal. If any party timely seeks rehearing of or appeals the Commission's order, all Parties will continue to have the right to withdraw until the conclusion of all rehearings and appeals. Upon the latter of: (1) the expiration of the statutory periods provided for rehearing and appeal of the Commission's order; and (2) the conclusion of all rehearings and appeals, all Parties that have not withdrawn will continue to be bound by the terms of the Agreement as modified by the Commission's order.

4.7. This Agreement shall become null and void upon the withdrawal of a party under Section 4.6 or if the FERC or RUS do not accept and approve this Agreement in its entirety, to the extent that it is determined that such approval is required, and the Parties shall be returned to their respective positions as they existed prior to the execution of this Agreement.

4.8. If the Agreement is voided or vacated for any reason after the Commission has approved the Agreement, none of the Parties will be bound by the Agreement.

4.9. The Agreement shall in no way be deemed to divest the Commission of jurisdiction under Chapter 278 of the Kentucky Revised Statutes.

4.10. The Agreement shall inure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

4.11. The Agreement constitutes the complete agreement and understanding among the Parties, and any and all statements, representations or agreements made prior hereto or contained contemporaneously herewith shall be null and void and shall be deemed to have been merged into the Agreement.

4.12. The Parties hereto agree that, for the purpose of the Agreement only, the terms are based upon the independent analysis of the Parties to reflect a fair, just, and reasonable resolution of the issues herein and are the product of compromise and negotiation.

4.13. The Parties hereto agree that neither the Agreement nor any of the terms shall be admissible in any court or commission except insofar as such court or commission is addressing litigation arising out of the implementation of the terms herein, the approval of this Agreement or a party's compliance with this Agreement. This Agreement shall not have any precedential value in this or any other jurisdiction.

4.14. The signatories hereto warrant that they have appropriately informed, advised, and consulted their respective party in regard to the contents and significance of this Agreement and based upon the foregoing are authorized to execute this Agreement on behalf of their respective party.

4.15. The Parties hereto agree that this Agreement is a product of negotiation among all Parties hereto, and no provision of this Agreement shall be strictly construed in favor of or against any Party.

4.16. The Parties hereto agree that this Agreement may be executed in multiple counterparts.

[Signature Pages Follow]

APPENDIX A: LIST OF AGREEMENT EXHIBITS

- Agreement Exhibit 1: Map 24-E-3A
- Agreement Exhibit 2: Modified Map 24-E-3A
- Agreement Exhibit 3: New Interconnection Request.

IN WITNESS WHEREOF, the Parties have hereunto affixed their signatures.

Louisville Gas and Electric Company

HAVE SEEN AND AGREED:

By:



Lonnie E. Bellar
Chief Operating Officer

Big Rivers Electric Cooperative Corporation

HAVE SEEN AND AGREED:

By: 

Robert W. Berry
President and CEO

HAVE SEEN AND AGREED:

By: Martin W. Littrel
Martin Littrel
President and CEO

