

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

ELECTRONIC JOINT APPLICATION)	
OF LOUISVILLE GAS AND ELECTRIC)	
COMPANY AND KENTUCKY)	
UTILITIES COMPANY FOR)	CASE NO. 2020-00016
APPROVAL OF A SOLAR POWER)	
CONTRACT AND TWO RENEWABLE)	
POWER AGREEMENTS TO SATISFY)	
CUSTOMER REQUESTS FOR A)	
RENEWABLE ENERGY SOURCE)	
UNDER GREEN TARIFF OPTION #3)	

VERIFIED APPLICATION

Pursuant to KRS 278.300 and 807 KAR 5:001, Louisville Gas and Electric Company (“LG&E”) and Kentucky Utilities Company (“KU”) (collectively, the “Companies” or “Applicants”) apply to the Kentucky Public Service Commission (“Commission”) for approval of a twenty-year contract (“Solar Power Contract”) with Rhudes Creek Solar, LLC (“Rhudes Creek Solar”) for the purchase of the output of a 100 MW solar generation facility to be built in Hardin County, Kentucky.¹ A copy of the Solar Power Contract is attached to this Application as Exhibit 1.²

Pursuant to the provisions of its Green Tariff GT Standard Rate Rider, KU applies for Commission approval of retail Renewable Power Agreements (“RPAs”) with Toyota Motor Manufacturing, Kentucky, Inc. (“Toyota”) and Dow Silicones Corporation (“Dow”), under whose

¹ Power Purchase Agreement Among Rhudes Creek Solar, LLC, Louisville Gas and Electric Company and Kentucky Utilities Company, November 21, 2019, Article 6.2(A).

² Simultaneous with the filing of this Application, Applicants have petitioned for confidential protection of certain portions of the Solar Power Agreement, as well as portions of the Renewable Power Agreements with Toyota Motor Manufacturing and Dow Silicones Corporation. Each of these documents is attached as an exhibit to this Application. In accordance with 807 KAR 5:001, Section 13, the portion of these exhibits for which confidential protection has been sought has been redacted pending a ruling on the Applicants’ motion. An unredacted version of each document has been filed under seal with the Applicants’ motion.

provisions those industrial customers will purchase a portion of the energy acquired through the Solar Power Contract. Copies of the two RPAs are attached to this Application as Exhibit 2 (Toyota) and Exhibit 3 (Dow).

Each Applicant further applies for approval of a minor amendment to its Green Tariff GT Standard Rate Rider to increase the maximum amount of renewable energy that may be purchased through RPAs. The proposed tariff amendments are attached as Exhibits 4 and 5 to the Application.

In support of their Application, the Applicants state as follows:

JOINT APPLICANTS

1. The full name and mailing address of LG&E are: Louisville Gas and Electric Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40202. It was incorporated in Kentucky on July 2, 1913, and is currently in good standing in Kentucky. A copy of LG&E's good standing certificate is attached as Exhibit 6 to this Application. LG&E can be reached at the email addresses of the counsel listed below.

2. The full name and mailing address of KU are: Kentucky Utilities Company, Post Office Box 32010, 220 West Main Street, Louisville, Kentucky 40202. It was incorporated in Kentucky on August 17, 1912, and in Virginia on November 26, 1991 (and effective as of December 1, 1991), and is in good standing in Kentucky and Virginia. Copies of KU's good standing certificates are attached as Exhibit 7 to this Application. KU can be reached at the email addresses of the counsel listed below.

3. LG&E is a public utility, as defined in KRS 278.010(3)(a) and (b), engaged in the electric and gas business. It generates and purchases electricity, and distributes and sells electricity

at retail in nine Kentucky Counties³ to approximately 414,000 customers. LG&E also purchases, stores, and transports natural gas and distributes and sells natural gas at retail in seventeen Kentucky Counties⁴ to approximately 328,000 customers.

4. KU is a public utility, as defined in KRS 278.010(3)(a), engaged in the electric business. It generates and purchases electricity, and distributes and sells electricity at retail in seventy-seven counties in Kentucky⁵ to approximately 555,000 customers.

5. Copies of all orders, pleadings, and other communications related to this proceeding should be directed to:

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³ Jefferson, Bullitt, Hardin, Henry, Meade, Oldham, Shelby, Spencer, and Trimble

⁴ Jefferson, Barren, Bullitt, Green, Hardin, Hart, Henry, Larue, Marion, Meade, Metcalfe, Nelson, Oldham, Shelby, Spencer, Trimble, and Washington

⁵ Adair, Anderson, Ballard, Barren, Bath, Bell, Bourbon, Boyle, Bracken, Bullitt, Caldwell, Campbell, Carlisle, Carroll, Casey, Christian, Clark, Clay, Crittenden, Daviess, Edmonson, Estill, Fayette, Fleming, Franklin, Fulton, Gallatin, Garrard, Grant, Grayson, Green, Hardin, Harlan, Harrison, Hart, Henderson, Henry, Hickman, Hopkins, Jessamine, Knox, Larue, Laurel, Lee, Lincoln, Livingston, Lyon, Madison, Marion, Mason, McCracken, McCreary, McLean, Mercer, Montgomery, Muhlenberg, Nelson, Nicholas, Ohio, Oldham, Owen, Pendleton, Pulaski, Robertson, Rockcastle, Rowan, Russell, Scott, Shelby, Spencer, Taylor, Trimble, Union, Washington, Webster, Whitley, and Woodford.

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6. This Application is supported by the verified testimony of the following persons:

a. David S. Sinclair, Vice President – Energy Supply and Analysis, who describes the Companies’ search for renewable energy sources, the methodology used to evaluate various renewable energy sources, and the negotiations undertaken which resulted in the selection of Rhudes Creek Solar as the winning bidder. Mr. Sinclair also discusses the terms of the Solar Power Contract and the Companies’ RPAs with Toyota and Dow.

b. Robert M. Conroy, Vice President – State Regulation and Rates, who explains how the Solar Power Contract satisfies the requisite regulatory standards and describes the particular industrial customers’ requests for renewable energy that the Solar Power Contract is intended to address. Mr. Conroy also explains the planned billing under the RPAs and presents each Company’s amended Green Tariff GT Standard Rate Rider sheet that reflects the increased capped MW name plate AC.

BACKGROUND

7. National and local customer demand for renewable energy has increased over the last several years as consumers have become more environmentally conscious and the businesses which serve consumers have sought to demonstrate that they share their customers’ environmental concerns. The Companies have responded to this increased demand for renewable energy⁶ by offering various programs and riders to its ratepayers over the years, including the Small and Large

⁶ See, e.g., Direct Testimony of John P. Malloy at 9-10 (filed Aug. 2, 2016 in *Joint Application of Kentucky Utilities Company and Louisville Gas and Electric Company for Approval of an Optional Solar Share Program Rider*, Case No. 2016-00274 (Ky. PSC filed Aug. 2, 2016)).

Green Energy Riders, the Solar Share Program, and the recently-approved Green Tariff. The Green Tariff, which the Commission approved in the Companies' 2018 Kentucky rate cases,⁷ was added to LG&E's and KU's tariff to ensure that businesses inside and outside Kentucky know that the Companies have multiple renewable offerings.⁸

8. The Green Tariff combines the prior Small and Large Green Energy Riders and Business Solar Program⁹ into a single rider and adds a third option for purchasing renewable power.¹⁰ Green Tariff Option #3, "Renewable Power Agreement," requires the Company and a customer interested in purchasing electrical output and all associated environmental attributes from a renewable energy generator to enter into a special contract that must be filed with and approved by the Commission. Two industrial customers – Toyota and Dow – have agreed to purchase renewable energy under Green Tariff Option #3 to be supplied from the Rhudes Creek Solar facility. Toyota has committed to purchasing 50 percent of the energy from Rhudes Creek Solar and Dow has committed to purchasing 25 percent of the energy from Rhudes Creek Solar.

9. The Companies now seek Commission approval of the Solar Power Contract with Rhudes Creek Solar to satisfy the two industrial customer requests for renewable energy pursuant to Green Tariff Option #3, and to provide a least cost energy source for all LG&E and KU customers.

⁷ *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294 (Ky. PSC Apr. 30, 2019); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295 (Ky. PSC Apr. 30, 2019).

⁸ Direct Testimony of Robert M. Conroy at 20-22 (filed Sept. 28, 2018 in *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Rates*, Case No. 2018-00294 (Ky. PSC Sept. 28, 2018)); Direct Testimony of Robert M. Conroy at 20-22 (filed Sept. 28, 2018 in *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295 (Ky. PSC Sept. 28, 2018)).

⁹ Participation in the Business Solar Program is "limited to Customers who wish to have the Company develop, procure, construct, maintain, manage, and own a solar array. The electrical energy produced by the array will be assigned to the Customer." Kentucky Utilities Company Tariff, P.S.C. No. 19, Original Sheet No. 69; Louisville Gas and Electric Company Electric Service Tariff, P.S.C. Electric No. 12, Original Sheet No. 69.

¹⁰ *Electronic Application of Kentucky Utilities Company for an Adjustment of Its Electric Rates*, Case No. 2018-00294, Order (Ky. PSC Apr. 30, 2019); *Electronic Application of Louisville Gas and Electric Company for an Adjustment of Its Electric and Gas Rates*, Case No. 2018-00295 (Ky. PSC Apr. 30, 2019).

SOLAR POWER CONTRACT

10. In February 2019 the Companies issued a request for proposals (“Renewable RFP”) for utility-scale renewable resources to evaluate the potential for local renewable energy to reduce customers’ energy costs. Sixteen companies responded with 94 initial and subsequent proposals, which ranged between 10 MW and 200 MW in size and 10 and 30 years in duration. The Companies carefully evaluated these options and determined that Rhudes Creek Solar’s proposal was the lowest cost flat price per kWh offer and was reasonable in its other terms. The Companies subsequently began negotiations with Rhudes Creek Solar, reaching a final agreement on November 21, 2019, subject to the approval sought by the Companies in this Application and other conditions precedent.¹¹

11. The Solar Power Contract provides for the following:

a. Rhudes Creek Solar will construct and commence commercial operation of a 100 MW solar generation facility in Hardin County, Kentucky no later than December 31, 2021, subject to limited extension for *force majeure* events and delays in satisfaction of conditions precedent. Rhudes Creek Solar will obtain all regulatory and land use approvals for construction of the facilities and related transmission.

b. The Companies will purchase for a period of 20 years, the output of the 100 MW name plate Rhudes Creek Solar generation facility at a flat price. As part of the purchase price, the Companies will also acquire the associated renewable energy attributes. To the extent customers purchase output under Green Tariff Option #3, the Companies will transfer the proportional renewable energy attributes to those customers.

¹¹ On January 10, 2020, the Companies and Rhudes Creek Solar executed Amendment No. 1 to the Solar Power Contract to correct typographical errors in the Solar Power Contract. A copy of Amendment No. 1 is included in Exhibit 1 to this Application.

c. Rhudes Creek Solar is responsible for the transmission of the electric power from the generation facility to an agreed delivery point and for arranging for transmission service to that agreed point.

d. The Solar Power Contract is contingent upon the Companies obtaining Commission approval and upon Rhudes Creek Solar obtaining all necessary regulatory and land use approvals and meeting the requisite delivery schedules.

12. If approved and when it becomes operational, the Rhudes Creek Solar facility will be the one of the largest solar projects in Kentucky and 10 times larger than the Companies' Brown Solar project. The Solar Power Contract represents a major advancement in solar generation for the Companies and the Commonwealth.

13. Based upon the Companies' current business plans and fuel cost forecasts, the purchase price for the acquired energy over the term of the Solar Power Contract compares favorably to the use of gas and coal generated energy over that term. As discussed in Mr. Sinclair's testimony, the Solar Power Contract provides a stable energy price for its 20-year term at a level that is competitive with the Companies' coal and simple cycle natural gas generation.

STANDARD OF REVIEW

14. KRS 278.300(1) provides that "[n]o utility shall issue any securities or evidences of indebtedness, or assume any obligation or liability in respect to the securities or evidences of indebtedness of any other person until it has been authorized so to do by order of the commission." Authorization for a utility to issue an evidence of indebtedness may only be granted if the evidence of indebtedness is "for some lawful object within the corporate purposes of the utility, is necessary or appropriate for or consistent with the proper performance by the utility of its service to the public and will not impair its ability to perform that service, and is reasonably necessary and appropriate for such purpose."

15. The Commission has previously held that an agreement obligating an electric utility to purchase power may constitute an evidence of indebtedness requiring prior Commission approval.¹² It has further found that wholesale power contracts that obligated a utility to pay monthly minimum demand charges over the life of the contract constituted evidences of indebtedness requiring prior Commission approval.¹³

16. Where an electric utility seeks to acquire additional energy through a power purchase agreement, the Commission has equated the purchase with the construction of additional generational facilities and has found that the same standard used to review the construction of generation facilities should be used to review the power purchase agreement, namely whether a need for the additional generation capacity exists and whether the purchase will result in a wasteful duplication of facilities.¹⁴ The Commission has recently affirmed its use of this standard of review.¹⁵

¹² In Administrative Case No. 350, the Commission noted that prior Commission approval of purchase power agreements may be required, especially if the agreement contained minimum payment obligation or take-or-pay provisions. *Consideration and Determination of the Appropriateness of Implementing a Ratemaking Standard Pertaining to the Purchase of Long-Term Wholesale Power by Electric Utilities*, Adm. Case No. 350 (Ky. PSC Oct. 25, 1993) at 8-9.

¹³ See e.g., *Application of Kentucky Utilities Company for an Order Pursuant to KRS 278.300 and For Approval of Long-Term Purchase Contract*, Case No. 2003-00395 (Ky. PSC Dec. 30, 2004); *Application of Louisville Gas and Electric Company for an Order Pursuant to KRS 278.300 and For Approval of Long-Term Purchase Contract*, Case No. 2003-00396 (Ky. PSC Dec. 30, 2004).

¹⁴ See, e.g., *Application of Kentucky Power Company for Approval of Renewable Energy Purchase Agreement for Wind Energy Resources Between Kentucky Power Company and FPL Illinois Wind, LLC*, Case No. 2009-00545 (Ky. PSC June 28, 2010) at 5-6 (“[I]n examining the statutory criteria for approving financing under KRS 278.300(3), the ‘purposes and uses of the proposed issue’ are for the acquisition of new generation; and for the debt to be ‘for some lawful object within the corporate purposes of the utility,’ there must be a need for additional generation and the absence of wasteful duplication.”).

¹⁵ *Electronic Application of South Kentucky Rural Electric Cooperative Corporation for Approval of Master Power Purchase and Sale Agreement and Transactions Thereunder*, Case No. 2018-00050 (Ky. PSC Sep. 27, 2018) at 31-32.

THE SOLAR POWER CONTRACT IS NECESSARY AND APPROPRIATE FOR THE COMPANIES' PROVISION OF UTILITY SERVICE AND MEETS THE REQUIREMENTS OF KRS 278.300

17. The Companies need renewable energy sources to meet their customers' growing demand for renewable energy. The Companies have sought to meet this demand in a variety of ways, such as through their Green Energy Riders and Solar Share Programs. In their last rate cases, the Companies added the Green Tariff Rate Schedule to each of their electric tariffs to provide multiple renewable energy offerings.

18. Toyota and Dow approached the Companies expressing an interest in purchasing energy from new renewable sources pursuant to Green Tariff Option #3. Toyota and Dow have executed their respective RPAs with KU. The Companies presently lack sufficient renewable energy sources to meet this need and will not be capable of satisfying the industrial customers' requests unless the Commission approves the Solar Power Contract.

19. The Solar Power Contract will not result in excess capacity or an unreasonable investment. It is intended to meet increased customer interest in renewable energy, as reflected in KU's proposed amended Green Tariff GR Standard Rate Rider sheet attached to this Application. The Companies have purchase commitments through the Green Tariff for 75 percent of the energy to be obtained through the Solar Power Contract. The 25 percent portion not allocated to Toyota and Dow will be allocated to native load customers, displacing higher cost energy in the course of the Companies' economic dispatch of their fossil fuel generation units. To the extent the Companies receive additional requests for renewable energy, they will issue another Renewable RFP and undertake the same process detailed in Mr. Sinclair's testimony.

20. The Solar Power Contract represents an efficient and productive investment, as Mr. Sinclair demonstrates in his testimony. The Companies' analysis shows that the cost of non-firm, economy energy to be purchased under the Solar Power Contract is expected to be competitive

with energy from existing sources of generation. While the renewable energy is not likely to result in lower costs in every hour of the Solar Power Contract's 20-year term, the Companies expect that the Solar Power Contract will reduce energy costs on a present value basis over the 20-year term if the current market price for 2021 Renewable Energy Certificates ("RECs") continues only for a few years.

21. The Solar Power Contract is consistent with the Companies' performance of their obligations to serve the public. A need for the new renewable energy from the proposed Rhudes Creek Solar facility exists. The purchase of the energy from that facility will not result in wasteful duplication. The acquisition of the proposed facility's energy and the Solar Power Contract are consistent with the Commission's long-held least cost principles, will produce significant benefits for the Companies' ratepayers and will result in the development of renewable energy resources in the Commonwealth.

FILING REQUIREMENTS OF 807 KAR 5:001, SECTIONS 14, 15, AND 18

22. The information required by Section 14 of 807 KAR 5:001 is contained in paragraphs 1 and 2 of this Application.

23. Pursuant to 807 KAR 5:001, Section 18(1)(b), descriptions of each Applicant's the property and field of operations, stated at original cost by accounts, are attached to this Application as Exhibits 8 and 9.

24. Pursuant to 807 KAR 5:001 Section 18(2)(a), financial exhibits for each Applicant are attached to this Application as Exhibits 10 and 11.

25. With respect to 807 KAR 5:001 Section 18(2)(b), a copy of LG&E's Indenture dated October 1, 2010 was filed in Case No. 2015-00138.¹⁶ Supplements to this Indenture were filed in Cases No. 20015-00138¹⁷ and No. 2016-00361¹⁸ and as post-proceeding responses in Case No. 2010-00205.¹⁹ A complete copy of KU's Indenture dated October 1, 2010 was filed in Case No. 2015-00137.²⁰ Supplements to this indenture were filed in Cases No. 2015-00137,²¹ No. 2016-00360²² and No. 2019-00242.²³

26. In light of the nature of the Companies' Application, the other filing requirements set forth in 807 KAR 5:001 Section 18 appear inapplicable. KU and LG&E do not propose to issue, assume, or use the proceeds related to any kind of stock, bond, or note, no property is being acquired, constructed, improved, or extended, and no obligations are being discharged or refunded as part of this Application. To the extent necessary, KU and LG&E request permission, pursuant to 807 KAR 5:001 Section 22 and for good cause shown, to deviate from the remaining filing requirements of 807 KAR 5:001 Section 18 due to their inapplicability.²⁴

¹⁶ *Application of Louisville Gas and Electric Company For An Order Amending and Extending Existing Authority With Respect To Revolving Line of Credit*, Case No. 2015-00138, Application, Exhibit 3 (Ky. PSC filed May 11, 2015).

¹⁷ *Id.*

¹⁸ *Application of Louisville Gas and Electric Company For An Order Amending and Extending Existing Authority With Respect To Revolving Line of Credit*, Case No. 2016-00361, Application, Exhibit 3 (Ky. PSC filed Oct. 14, 2016).

¹⁹ *Application of Louisville Gas and Electric Company For An Order Authorizing The Restructure and Refinancing of Unsecured Debt and The Assumption of Obligations and For Amendment of Existing Authority*, Case No. 2010-00205, Letter from Rick E. Lovekamp, Manager, Louisville Gas and Electric Company, to Talina Matthews, Executive Director, Kentucky Public Service Commission (June 2, 2017); Letter from Rick E. Lovekamp, Manager, Louisville Gas and Electric Company, to Gwen Pinson, Executive Director, Kentucky Public Service Commission (Apr. 2, 2019).

²⁰ *Application of Kentucky Utilities Company For An Order Amending and Extending Existing Authority With Respect To Revolving Line of Credit*, Case No. 2015-00137, Application, Exhibit 3 (Ky. PSC filed May 11, 2015).

²¹ *Id.*

²² *Application of Kentucky Utilities Company For An Order Amending and Extending Existing Authority With Respect To Revolving Line of Credit*, Case No. 2016-00360, Application, Exhibit 3 (Ky. PSC filed Oct. 14, 2016).

²³ *Electronic Application of Kentucky Utilities Company For An Order Authorizing the Issuance of Securities and Assumption of Obligations*, Case No. 2019-00242, Kentucky Utilities Company Response to Commission Staff's Initial Request for Information, Item 1 (Ky. PSC filed Aug. 1, 2019).

²⁴ *Application of South Kentucky Rural Electric Cooperative Corporation for Approval of Master Power Purchase and Sale Agreement and Transactions Thereunder*, Case No. 2018-00050 (Ky. PSC Feb. 19, 2018) at 3.

27. Similarly, the filing requirements set forth in 807 KAR 5:001 Section 15 also appear inapplicable. Applicants are not proposing to construct or extend any plant, equipment, property, or facility with the Solar Power Contract or the two Renewable Power Agreements. While the Commission has generally viewed purchase power agreements as evidences of indebtedness requiring prior Commission approval pursuant to KRS 278.300 and has incorporated into its review of such agreements certain standards previously applied only to an application for a certificate of public convenience and necessity,²⁵ the Commission to date has not required applications for approval of purchase power agreements to meet the filing requirements set forth in 807 KAR 5:001, Section 15. Accordingly, the Applicants have not addressed in this Application those filing requirements. To the extent necessary, KU and LG&E request permission, pursuant to 807 KAR 5:001 Section 22 and for good cause shown, to deviate from the remaining filing requirements of 807 KAR 5:001 Section 15 due to their inapplicability.

AMENDMENT TO GREEN TARIFF GT STANDARD RATE RIDER

28. Green Tariff Standard Rate Rider GT currently limits the renewable energy output that each Applicant can provide to its customers through RPAs to a system cumulative 50 MW. In light of the current interest expressed by eligible customers for renewable energy, each Applicant proposes to amend its Green Tariff Standard Rate Rider GT to increase this limit to 125 MW. Revised tariff sheets reflecting this proposed amendment are attached to this Application as Exhibits 4 and 5.

29. As service under Green Tariff Standard Rate Rider GT is voluntary, and as the proposed amendment will not affect the amount that any customer pays for electric service or the

²⁵ *Application of South Kentucky Rural Electric Cooperative Corporation for Approval of Master Power Purchase and Sale Agreement and Transactions Thereunder*, Case No. 2018-00050 (Ky. PSC Sept. 27, 2018) at 6-7.

quality, delivery, or rendering of a customer's service, 807 KAR 5:011, Section 8 does not require notice to the public of the proposed amendment to Green Tariff Standard Rate Rider GT. While no notice to the public is required, KU will, within five business days of the filing of this Application, post on its website a copy of such notice and a hyperlink to the location on the Commission's Web site where this Application is available.

30. Should the Commission determine that 807 KAR 5:011, Section 8 requires notice to the public of the proposed tariff revision, the Companies request a deviation from the requirements of that regulation. Given that service under Green Tariff Standard Rate Rider GT is purely voluntary and that any benefits from publication are relatively small in comparison to the costs of publication, good cause exists for such deviation. Granting the Companies' requested deviation would be consistent with the Commission's orders in granting the Companies a deviation on the same grounds in prior proceedings.²⁶

CONCLUSION

For the reasons stated, the Companies respectfully request that the Commission issue an order on or before March 31, 2020:

1. Approving the Companies' Solar Power Contract with Rhudes Creek Solar, LLC;
2. Approving the two Renewable Power Agreements with the requesting industrial customers (Toyota Motor Manufacturing, Kentucky, Inc. and Dow Silicones Corporation);

²⁶ See, e.g., *Application of Louisville Gas and Electric Company and Kentucky Utilities Company to Install and Operate Electric Charging Stations in their Certified Territories, for Approval of an Electric Vehicle Supply Equipment Rate, an Electric Vehicle Charging Rate, Depreciation Rate, and for a Deviation from the Requirements of Certain Commission Regulations*, Case No. 2015-00355, Order at 10-11 (Ky. PSC Apr. 16, 2016) ("However, the Commission finds that LG&E/KU have shown good cause to deviate from the notice requirements, as the cost of providing public notice would outweigh the benefit derived from such notice.")

3. Approving each Applicant's proposed amendment to its amended Green Tariff Standard Rate Rider GT;
4. Granting the Companies' request for a deviation from the requirements of 807 KAR 5:011, Section 8 that requires notice to the public of the proposed tariff revision, should the Commission determine that regulation is applicable to this Application; and
5. Granting all other relief to which the Companies may be entitled.

Dated: January 23, 2020

Respectfully submitted,



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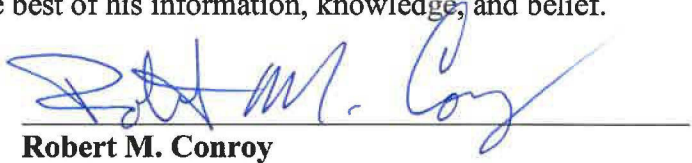
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*Counsel for Louisville Gas and Electric Company
and Kentucky Utilities Company*

VERIFICATION


COMMONWEALTH OF KENTUCKY)
) SS:
COUNTY OF JEFFERSON)

The undersigned, **Robert M. Conroy**, being duly sworn, deposes and says he is Vice President, State Regulation and Rates for LG&E and KU Energy LLC, Kentucky Utilities Company, Louisville Gas and Electric Company, and LG&E and KU Services Company, and that he has personal knowledge of the matters set forth in the foregoing Verified Application, and that the content thereof is true and correct to the best of his information, knowledge, and belief.



Robert M. Conroy

Subscribed and sworn to before me, a Notary Public in and before said County and State, this 21st day of January, 2020.




Notary Public, State at Large (SEAL)
Notary Commission No. 603967

My Commission Expires:
7/11/2022

CERTIFICATE OF SERVICE

In accordance with 807 KAR 5:001, Section 8, I certify that the electronic filing of this Application by Kentucky Utilities Company and Louisville Gas and Electric Company is a true and accurate copy of the same document being filed in paper medium; that the electronic filing was transmitted to the Public Service Commission on January 23, 2020; that there are currently no parties that the Public Service Commission has excused from participation by electronic means in this proceeding; and that on or before January 27, 2020 this Application in paper medium will be delivered to the Public Service Commission.



Gerald R. Niess
Counsel for Kentucky Utilities Company and
Louisville Gas and Electric Company

INDEX

<u>Exhibit No.</u>	<u>Description</u>
1	Power Purchase Agreement Among Rhudes Creek Solar, LLC, Louisville Gas and Electric Company and Kentucky Utilities Company (November 21, 2019); Amendment No. 1 to Power Purchase Agreement (January 10, 2020).
2	Renewable Power between Toyota Motor Manufacturing, Kentucky, Inc. and Kentucky Utilities Company (January 13, 2020)
3	Renewable Power between Dow Silicones Corporation and Kentucky Utilities Company (January 10, 2020)
4	Proposed Amendment to Green Tariff GT Standard Rate Rider - Kentucky Utilities Company Tariff, PSC No. 19, First Revision of Original Sheet No. 69 Cancelling PSC No. 19, Original Sheet No. 69
5	Proposed Amendment to Green Tariff GT Standard Rate Rider - Louisville Gas and Electric Company Tariff, PSC Electric No. 12, First Revision of Original Sheet No. 69 Cancelling PSC Electric No. 12, Original Sheet No. 69
6	Certificate of Existence – Louisville Gas and Electric Company (January 7, 2020)
7	Certificate of Good Standing (Commonwealth of Virginia) – Kentucky Utilities Company (January 8, 2020); Certificate of Existence (Commonwealth of Kentucky) – Kentucky Utilities Company (January 7, 2020)
8	Description of Property – Kentucky Utilities Company
9	Description of Property – Louisville Gas and Electric Company
10	Financial Exhibit – Kentucky Utilities Company
11	Financial Exhibit – Louisville Gas and Electric Company

POWER PURCHASE AGREEMENT

AMONG

RHUDES CREEK SOLAR, LLC,

LOUISVILLE GAS AND ELECTRIC COMPANY

AND

KENTUCKY UTILITIES COMPANY

November 21, 2019

TABLE OF CONTENTS

	Page
ARTICLE 1 Definitions and Rules of Interpretation	1
1.1 Rules of Construction.....	1
1.2 Interpretation with Interconnection Agreement.....	2
1.3 Interpretation of Arrangements for Utility Supply to the Facility.....	2
1.4 Definitions	3
ARTICLE 2 Term and Termination.....	17
ARTICLE 3 Facility Description.....	17
3.1 Summary Description.....	17
3.2 General Design of the Facility	17
3.3 Facility Capacity Adjustment.....	18
ARTICLE 4 Commercial Operation.....	18
4.1 Completion by Required Completion Date	18
4.2 Commercial Operation.....	19
4.3 Test Energy	19
ARTICLE 5 Delivery and Metering	20
5.1 Delivery Arrangements	20
5.2 Availability Reporting	20
5.3 Electric Metering Devices.....	20
5.4 Interconnection Information	20
ARTICLE 6 Conditions Precedent	21
6.1 Seller’s Condition Precedent	21
6.2 Buyers’ Condition Precedent	23
6.3 Failure of Condition Precedent.....	23
ARTICLE 7 Sale and Purchase of Solar Energy Output and Renewable Energy Benefits.....	25
7.1 Sale and Purchase of Solar Energy Output and Capacity.....	25
7.2 Scheduling.....	26
7.3 No Sale to Third Parties	27
ARTICLE 8 Payment Calculations	27
8.1 Payments to Seller	27
8.2 Curtailed Energy	27
8.3 Availability Guaranty	28
8.4 Payment Support Requirement.....	29
8.5 Survival on Termination.....	29
ARTICLE 9 Billing and Payment Procedures	29
9.1 Statements and Payment of Electricity Payments	29
9.2 Miscellaneous Payments.....	30
9.3 Currency and Method of Payment	30
9.4 Interest	30

9.5	Disputed Items	31
9.6	Statement Errors.....	31
9.7	Taxes.....	31
9.8	Set-Off and Payment Adjustments	32
9.9	Security Deposit.....	32
9.10	Survival on Termination	32
ARTICLE 10 Operations and Maintenance.....		32
10.1	Construction of the Facility	32
10.2	Commissioning Tests.....	33
10.3	Maintenance of the Facility.....	33
10.4	Scheduled Maintenance	33
10.5	Additional Maintenance Outages	34
10.6	Access to and Inspection of Facility.....	34
ARTICLE 11 Security.....		35
11.1	Seller Security	35
11.2	Effect of Security	35
ARTICLE 12 Default and Remedies.....		35
12.1	Events of Default of Seller	35
12.2	Events of Default of Buyers.....	37
12.3	Damages Prior to Termination.....	38
12.4	Termination.....	38
12.5	Remedies Cumulative	39
12.6	Waiver and Exclusion of Other Damages.....	39
12.7	Duty to Mitigate	40
12.8	Non-Recourse	40
ARTICLE 13 Contract Administration and Notices.....		40
13.1	Notices in Writing	40
13.2	Records	40
13.3	Provision of Real Time Data	41
ARTICLE 14 Force Majeure and Seller Delivery Excuse		41
14.1	Definition of Force Majeure Event.....	41
14.2	Effect of Force Majeure.....	42
14.3	Notification Obligations	42
14.4	Duty to Mitigate	43
14.5	Force Majeure Restoration.....	43
14.6	Restoration Consents.....	43
14.7	Preparation of Restoration Report	44
14.8	Discussion of Restoration Report.....	44
ARTICLE 15 Representations, Warranties and Covenants		44
15.1	Seller's Representations, Warranties, and Covenants	44
15.2	Buyers' Representations, Warranties, and Covenants.....	46
ARTICLE 16 Insurance.....		47
16.1	Evidence of Insurance.....	47

16.2	Term and Modification of Insurance.....	47
16.3	Endorsements and Other Requirements	47
ARTICLE 17 Indemnity.....		48
17.1	Indemnification	48
17.2	Indemnification for Fines and Penalties	49
17.3	Notice of Proceedings	49
17.4	Defense of Claims.....	49
17.5	Subrogation.....	50
ARTICLE 18 Legal and Regulatory Compliance		50
18.1	Applicable Laws	50
18.2	Governmental Approvals	50
18.3	Compliance with Reliability Standards	50
18.4	Change in Applicable Law	51
ARTICLE 19 Assignment and Other Transfer Restrictions		51
19.1	No Assignment Without Consent	51
19.2	Transfers	51
19.3	Buyers' Consent.....	51
ARTICLE 20 Miscellaneous		51
20.1	Waiver.....	51
20.2	Rate Changes.....	52
20.3	Disclaimer of Third Party Beneficiary Rights	52
20.4	Relationship of the Parties	52
20.5	Survival of Obligations	52
20.6	Severability.....	52
20.7	Complete Agreement; Amendments.....	53
20.8	Binding Effect.....	53
20.9	Headings	53
20.10	Counterparts	53
20.11	Governing Law	53
20.12	Confidentiality	53
20.13	Press Releases and Media Contact	56
20.14	Jurisdiction; Venue; Waiver of Jury Trial.....	56

LIST OF EXHIBITS

Exhibit A	Notice Addresses
Exhibit B	Insurance Coverages
Exhibit C	Form of Surety Bond
Exhibit D	Production Model Variables and Methodology
Exhibit E	Form of Guaranty

**Power Purchase Agreement
among
Rhudes Creek Solar, LLC,
Louisville Gas and Electric Company, and Kentucky Utilities Company**

This Power Purchase Agreement (this “PPA”) is made as of November 21, 2019, by and among (i) **Rhudes Creek Solar, LLC** (“Seller”), a Delaware limited liability company with a principal place of business at c/o ibV Energy Partners LLC, 777 Brickell Ave., Suite 500, Miami, FL 33131, (ii) **Louisville Gas and Electric Company** (“LG&E”), a Kentucky corporation with a principal office at 220 West Main Street, Louisville, Kentucky 40202, and (iii) **Kentucky Utilities Company** (“KU”), a Kentucky and Virginia corporation with its principal office at One Quality Street, Lexington, Kentucky 40507. LG&E and KU are sometimes hereinafter referred to individually as “Buyer” and collectively (and severally liable as provided in Section 12.6 below) as the “Buyers.”

WHEREAS, Seller desires to develop, design, construct, own or lease, and operate a solar photovoltaic electric generating facility in Hardin County, Kentucky with an expected total maximum power output of approximately but not more than 100 MWac and not less than the Minimum Demonstrated Capacity, and which is defined below as the “Facility”; and

WHEREAS, Seller desires to sell and deliver to Buyers at the Point of Interconnection the Solar Energy Output generated by the Facility and any Renewable Energy Benefits associated with such Solar Energy Output.

NOW, THEREFORE, in consideration of the premises and the mutual covenants and conditions herein contained, the sufficiency and adequacy of which are hereby acknowledged, the Parties agree to the following:

**ARTICLE 1
Definitions and Rules of Interpretation**

1.1 Rules of Construction. The capitalized terms listed in this Article shall have the meanings set forth herein whenever the terms appear in this PPA, whether in the singular or the plural or in the present or past tense. Other terms used in this PPA but not listed in this Article shall have meanings as commonly used in the English language and, where applicable, in Prudent Industry Practice. Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings. In addition, the following rules of interpretation shall apply:

- (A) The masculine shall include the feminine and neuter.
- (B) Unless such a reference states otherwise, references to “Articles,” “Sections,” or “Exhibits” shall be to articles, sections, or exhibits of this PPA.

(C) The Exhibits attached hereto are incorporated in and are intended to be a part of this PPA; provided, that in the event of a conflict between the terms of any Exhibit and the body of this PPA, the body of this PPA shall take precedence.

(D) This PPA was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this PPA and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this PPA or any part hereof.

(E) Except with respect to any provision of this Agreement stating that a Party may exercise its sole discretion, (i) the Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this PPA. Unless expressly provided otherwise in this PPA, (ii) where the PPA requires the consent, approval, or similar action by a Party, such consent or approval shall not be unreasonably withheld, conditioned or delayed, and (iii) wherever the PPA gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

(F) Use of the words “include” or “including” or similar words shall be interpreted as “including but not limited to” or “including, without limitation.”

(G) The words “shall” and “will” have equal force and effect.

(H) The words “herein,” “hereof,” or “hereunder” or similar terms refer to this PPA as a whole and not to any specific section or article.

1.2 Interpretation with Interconnection Agreement.

(A) The Parties recognize that Seller will enter into a separate Interconnection Agreement with the Interconnection Provider. Notwithstanding any other provision in this PPA, nothing in the Interconnection Agreement, nor any alleged event of default thereunder, shall alter or modify Seller’s or Buyers’ rights, duties and obligations under this PPA, and nothing in this Agreement, nor any alleged event of default hereunder, shall alter or modify the rights, duties and obligations of Seller or the Interconnection Provider under the Interconnection Agreement.

(B) Except and only to the extent expressly stated otherwise herein, Seller expressly recognizes that, for purposes hereof, the Interconnection Provider and shall be deemed to be a separate entity and separate contracting party from Buyers whether or not the Interconnection Agreement is entered into with a Buyer or an Affiliate of Buyer, in its capacity as the Interconnection Provider. Seller acknowledges that Buyers, acting in their capacity as the purchasers hereunder, have no responsibility for or control over Interconnection Provider, and are not liable under this Agreement for any breach of any obligation or duty of the Interconnection Provider under the Interconnection Agreement.

1.3 Interpretation of Arrangements for Utility Supply to the Facility. This PPA does not provide for the supply of retail electric power or natural gas to the Facility (“House

Energy”). Seller shall contract with the local utility in whose retail service territory the Facility is located (“Local Provider”) for the supply of House Energy. If a Buyer is the Local Provider, Seller’s arrangements for the supply of House Energy to the Facility and this PPA shall be separate and free-standing arrangements. For purposes of this PPA, the Local Provider shall be treated as a separate entity and separate contracting party, whether or not the Local Provider is a Buyer or an Affiliate of a Buyer. Notwithstanding any other provision in this PPA, nothing in Seller’s arrangements for the supply of House Energy to the Facility shall alter or modify Seller’s or Buyers’ rights, duties and obligations under this PPA.

1.4 Definitions. The following terms shall have the meanings set forth herein:

“Abandonment” means (a) the relinquishment of all possession and control of the Facility by Seller, other than pursuant to a transfer permitted under this Agreement, or (b) if after commencement of the construction of the Facility, and prior to the Commercial Operation Date, there is a complete cessation of the construction and testing of the Facility for 90 consecutive days by Seller and Seller’s contractors, but only if such relinquishment or cessation is not caused by or attributable to an Event of Default of either Buyer, or by an event of Force Majeure.

“Additional Maintenance Outages” has the meaning assigned to it in Section 10.5 hereof.

“Affiliate” means, with respect to any Person, each Person that directly or indirectly controls or is controlled by or is under common control with such Person. For the purposes of this definition, “control” (including the terms “controls”, “under the control of”, “controlled by”, and “under common control with”), as used with respect to any Person, shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management of the policies of such Person, whether through ownership interest, by contract or otherwise.

“Agreement” means this Power Purchase Agreement together with the Exhibit(s) and Schedule(s) attached hereto, as such may be amended from time to time.

“A.M. Best” means A.M. Best Company, Inc. and its affiliates.

“Applicable Law” means all applicable laws, statutes, treaties, codes, ordinances, regulations, certificates, orders, licenses and permits of any Governmental Authority and all Non-Governmental Compliance Obligations, now in effect or hereafter enacted, amendments to any of the foregoing, interpretations of any of the foregoing by a Governmental Authority having jurisdiction, and all applicable judicial, administrative, arbitration and regulatory decrees, judgments, injunctions, writs, orders, awards or like actions (including those relating to human health, safety, the natural environment or otherwise).

“Availability” for a period means, the ratio, expressed as a percentage, of (a) for the actual Solar Energy Output during such period over (b) the Expected Amount for such period.

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“Availability Cure” means the occurrence of an Availability Satisfactory Day after an Availability Unsatisfactory Day.

“Availability Day” means any Day after the date sixty (60) days following the Commercial Operation Date and before the end of the Term.

“Availability Default Period” means, with regard to an Availability Unsatisfactory Day, the period starting the day after such Availability Unsatisfactory Day and ending on the day that is sixty (60) Availability Days following the receipt by Seller of an Availability Underperformance Notice with regard to such Availability Unsatisfactory Day; provided that an Availability Day shall not be counted toward such sixty (60) Availability Days if it (i) falls within an Excused Maintenance Outage scheduled in accordance with Section 10.4(A) and, if changed in accordance with Section 10.4(C), changed before the Availability Unsatisfactory Day on which the start of such sixty (60) Availability Days is based, or (ii) consists entirely of Seller Uncontrollable Minutes.

“Availability LD Cure Period” means, with regard to an Availability Unsatisfactory Day, the period starting the day after such Availability Unsatisfactory Day and ending on the day that is thirty (30) Availability Days following the receipt by Seller of an Availability Underperformance Notice with regard to such Availability Unsatisfactory Day; provided that an Availability Day shall not be counted toward such thirty (30) Availability Days if it (i) falls within an Excused Maintenance Outage scheduled in accordance with Section 10.4(A) and, if changed in accordance with Section 10.4(C), changed before the Availability Unsatisfactory Day on which the start of such thirty (30) Availability Days is based, or (ii) consists entirely of Seller Uncontrollable Minutes.

“Availability Satisfactory Day” means an Availability Day on which the Availability of the Facility is at least [REDACTED] percent ([REDACTED]%) of the Expected Amount for such Availability Day.

“Availability Underperformance Notice” has the meaning ascribed in Section 8.3(B).

“Availability Unsatisfactory Day” means an Availability Day on which the Availability of the Facility is less than [REDACTED] percent ([REDACTED]%) of the Expected Amount for such Availability Day.

“Avoided Energy Cost” means Buyer’s avoided energy cost per MWh set in the Buyers’ Standard Rate Rider LQF or a successor provision of Buyers’ tariffs, expressed in Dollars.

“Business Day” means any calendar Day that is not a Saturday, a Sunday, or a NERC, state and/or federal recognized holiday where banks are permitted or authorized to close in Kentucky.

“Buyer” and “Buyers” is defined in the preamble of this Agreement, and includes such Person’s permitted successors and assigns.

“Buyer Entities” has the meaning ascribed to it in Section 17.1.

“Buyers’ Conditions Precedent” is defined in Section 6.2.

“Buyers’ Tier 1 CP” is defined in Section 6.2.

“Buyers’ Tier 1 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Buyers’ Tier 3 CPs” is defined in Section 6.2.

“Buyers’ Tier 3 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Capacity Rights” means any current or future defined characteristic, certificate, tag (but not Renewable Energy Benefits), credit, ancillary service or attribute thereof, or accounting construct, including any of the same counted towards any current or future resource adequacy or reserve requirements, associated with the electric generation capability and capacity of the Facility or the Facility’s capability and ability to produce energy; provided, that Capacity Rights shall not include any ancillary services that Seller is expressly obligated to provide to the Interconnection Provider pursuant to the terms of the Interconnection Agreement. Capacity Rights do not include any Tax Credits, or any other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility.

“Change in Applicable Law” means the enactment, adoption, promulgation, implementation, or issuance of, or a new or changed interpretation of, any Applicable Law or Non-Governmental Compliance Obligation that takes effect after the Effective Date, including Applicable Laws regarding Renewable Energy Benefits, Taxes, and/or the generation and sale of electricity and/or Non-Governmental Compliance Obligations.

“Code” means the U.S. Internal Revenue Code of 1986, including applicable rules and regulations promulgated thereunder, as amended from time to time.

“Commercial Operation” is defined in Section 4.2.

“Commercial Operation Date” means the date on which Commercial Operation is achieved.

“Commission Approvals” means such approvals from the PSC or the Virginia State Corporation Commission, as Buyers choose to pursue in their sole discretion, with respect to the performance of Buyers’ obligations and recovery of costs incurred hereunder, all without any requirement to modify the terms of this Agreement and without any conditions unacceptable to Buyer in its sole discretion.

“Commissioning” or “Commissioned” means, with respect to the Facility or any part thereof, the commencement of the period during which the Facility or a part thereof has begun Testing and ending when the Facility or part thereof has been approved

for the production of Solar Energy and authorized to commence delivery of Solar Energy Output, provided, however, that for certain tax and other corporate purposes, in accordance with Applicable Law, Commissioning shall be deemed to occur when any measurable amount of Solar Energy Output is first generated at the Facility and delivered and sold to Buyers consistent with the provisions of this PPA.

“Commissioning Tests” has the meaning assigned to it in Section 10.2.

“Confidential Information” has the meaning ascribed to it in Section 20.12(F).

“CP Confirmation Notice” means any notice defined in Section 6.3 and having “CP Confirmation Notice” as part of the term by which it is defined.

“Credit Event” shall mean, with regard to a Buyer: (x) if the credit rating then assigned to such Buyer’s unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancement) or other primary debt security is reduced to below an Investment Grade Rating by a Credit Rating Agency, or any Credit Rating Agency has suspended or withdrawn such unenhanced credit rating for credit-related reasons, (y) the rating assigned to a Buyer’s senior unsecured long-term debt obligations (not supported by third party credit enhancements) or, if the Buyer does not have a rating for its senior unsecured long-term debt, then the rating assigned to such Buyer by a Credit Rating Agency, is reduced to below an Investment Grade Rating; or (z) if such Buyer does not make payment to Seller when due more than once in any twelve (12) month period and such Buyer does not prepare a cure plan to insure compliance with the payment requirements under this PPA that is satisfactory to Seller within five (5) Days of such late payment.

“Credit Rating Agency” or “CRA” means a nationally recognized statistical rating organization (“NRSO”), which is a credit rating agency (“CRA”) that issues credit ratings that the United States Securities and Exchange Commission permits other financial firms to use for certain regulatory purposes. Among the 10 designated CRA’s by the NRSO, Buyers and Seller shall rely on ratings provided by one or more ratings issued by the Big Three credit rating agencies, Standard & Poor’s (S&P), Moody’s and Fitch Group, as it pertains to Letter(s) of Credit and A.M. Best as it pertains to Surety Bonds. If no such rating is provided by the aforementioned CRAs, Buyer and Seller shall find a CRA and/or do credit due diligence as mutually agreed upon by the Parties.

“Curtailed Energy” has the meaning ascribed to it in Section 8.2(A).

“Curtailed Renewable Energy Benefits” has the meaning ascribed to it in Section 8.2(A).

“Day” means a period beginning at 12:00 a.m. EST on any Day and ending at 11:59:59 p.m. EST on such Day.

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“Demonstrated Capacity” means the Facility’s actual net generating nameplate capacity rating, measured in MWac, as determined by the Commissioning Tests.

“Designated Network Resource” has the meaning assigned to it in the Interconnection Provider’s open access transmission tariff.

“Disclosing Party” has the meaning ascribed to it in Section 20.12(A).

“Disputing Party” has the meaning assigned to it in Section 9.5 hereof.

“Dollars” means the lawful currency of the United States of America.

“Early Termination Date” has the meaning ascribed to it in Section 12.4(A).

“Effective Date” means the date first written above.

“Electric Metering Device(s)” means all metering and data processing equipment used to measure, record, or transmit data relating to the Solar Energy Output generated by the Facility. Electric Metering Devices include the meter, the metering current transformers and the metering voltage transformers.

“Emergency Condition” means a condition or situation that presents an imminent physical threat of danger to life, health or property, and/or could reasonably be expected in the opinion of the Interconnection Provider to cause a significant disruption to the Interconnection System or otherwise be required in accordance with the requirements of the NERC, SERC, or the Reliability Coordinator, or any system condition not consistent with Prudent Industry Practices.

“EPC Contract” means the engineering, procurement and construction contract(s) or other similar documents entered into by Seller in relation to the engineering, procurement and construction of the Facility.

“EST” means Eastern Standard Time.

“Event of Default” has the meaning set forth in Article 12.

“Excess Solar Energy” means any incremental Solar Energy Output beyond the Maximum Production Amount during any Year.

“Excess Solar Energy Payment Rate” means a rate equal to [REDACTED] percent ([REDACTED]%) of the Solar Energy Payment Rate.

“Excused Maintenance Outage” means: (1) Scheduled Maintenance Outages outside the Non Scheduled Maintenance Period; and (2) up to thirty (30) hours per calendar year of Scheduled Maintenance Outages during the Non-Scheduled Maintenance Period.

“Expected Amount” with respect to a period shall mean the quantity of Solar Energy Output expressed in MWh that would have been produced by the Facility during such period, except MWh that would have been produced by the Facility any portions of such period which are during Excused Maintenance Outages or Seller Uncontrollable Minutes, if the Facility operated at 100% of the Facility Capacity in MWac throughout such period, except any portions of such period which are during Excused Maintenance Outages or Seller Uncontrollable Minutes, using the Production Model.

“Facility” means Seller’s solar electric generating facility and Seller’s Interconnection Facilities, as identified and described in Article 3, including all of the following, the purpose of which is to produce electricity and deliver such electricity to the Point of Interconnection: Seller’s equipment, buildings, all of the generation facilities, including step-up transformers, output breakers, facilities necessary to connect to the Point of Interconnection, protective and associated equipment, improvements, and other tangible assets, contract rights, easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation, and maintenance of the electric generating facility that produces the Solar Energy Output subject to this PPA.

“Facility Capacity” means 100 MWac, which Facility Capacity may be adjusted pursuant to Section 3.3.

“FERC” means the Federal Energy Regulatory Commission or any successor agency.

“Financial Closing” means the fulfillment of each of the following conditions:

- (A) the execution and delivery of the Financing Documents; and
- (B) all conditions precedent to the initial availability for disbursement of funds under the Financing Documents (other than relating to the effectiveness of this PPA) are satisfied or waived.

“Financing Documents” means the loan and credit agreements, notes, bonds, indentures, sale-leaseback agreements, guarantees, security agreements, lease financing agreements, partnership and limited liability company operating agreements, mortgages, deeds of trust, interest rate exchanges, swap agreements and other documents relating to the development, bridge, construction and/or permanent debt and/or equity financing (including the monetization of Tax Credits and accelerated depreciation by equity investment, issuance of cash in lieu of Tax Credits and/or sale-leaseback agreements) for the Facility, including any credit enhancement, credit support, working capital financing, or refinancing documents, and any and all amendments, modifications, or supplements to the foregoing that may be entered into from time to time at the discretion of Seller or its Affiliates in connection with development, construction, ownership, leasing, operation or maintenance of the Facility.

“Financing Parties” means the Persons (including any trustee or agent on behalf of such Persons) providing financing or refinancing to or on behalf of Seller or its

Affiliates, whether debt or equity, or a combination thereof, for the design, development, construction, Testing, Commissioning, operation and maintenance of the Facility (whether limited recourse, or with or without recourse).

“Fitch Group” means Fitch Ratings, Inc., Fitch Ratings, Ltd. and their affiliates or their successors.

“Force Majeure” has the meaning set forth in Section 14.1(A).

“Forced Outage” means a reduction of, or cessation in the delivery of, or inability to deliver, Solar Energy Output that is not the result of (i) a Scheduled Maintenance Outage, (ii) a Force Majeure event, (iii) a Seller Delivery Excuse, (iv) an Emergency Condition, or (v) changes in weather and ambient conditions.

“Governmental Approval” means any authorization, consent, permission, approval, license, ruling, permit, exemption, variance, order, judgment, instruction, condition, direction, directive, decree, declaration of or regulation by any Governmental Authority, including: (i) with regard to Seller, relating to the construction, development, ownership, occupation, start-up, Testing, operation or maintenance of the Facility, or (ii) with regard to each Buyer, the execution, delivery or performance of this PPA or the procurement pursuant to this PPA of the Solar Energy Output and the Renewable Energy Benefits and recovery of the related costs. Governmental Approval shall also mean, where and as applicable and the context so dictates, any and all authorization, consent, permission, approval, license, ruling, permit, exemption, variance, order, judgment, instruction, condition, direction, directive, decree, declaration of or regulation with regard to any Non-Governmental Compliance Obligations.

“Governmental Authority” means any federal, state, local or municipal governmental body; any governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal.

“House Energy” has the meaning assigned to it in Section 1.3.

“Indemnified Party” means the Buyer Entities entitled to indemnification by Seller under Section 17.1(B), or the Seller Entities entitled to indemnification under Section 17.1(C), as appropriate.

“Independent Transmission Organization” or “ITO” means an entity authorized by FERC to administer Buyers’ open access transmission tariff.

“Interconnection Agreement” means the separate agreement between Seller and the Interconnection Provider for interconnection of the Facility to the Interconnection Provider’s System, as such agreement may be amended from time to time; provided, however, that a provisional interconnection agreement executed prior to the completion of all system impact and facility studies shall not be considered to be an Interconnection Agreement.

“Interconnection Facilities” means Interconnection Provider’s Interconnection Facilities and Seller’s Interconnection Facilities.

“Interconnection Provider” means the entity that owns, leases, or otherwise controls the electric transmission facilities to which Seller proposes to interconnect.

“Interconnection Provider’s Interconnection Facilities” means the facilities and equipment installed by the Interconnection Provider after the Point of Interconnection for the direct purpose of interconnecting the Facility with the Interconnection Provider’s System. Arrangements for the installation and operation of the Interconnection Provider’s Interconnection Facilities shall be governed by the Interconnection Agreement.

“Interconnection Provider’s System” means the contiguously interconnected electric transmission, including Interconnection Provider’s Interconnection Facilities, over which the Interconnection Provider has rights (by ownership or contract) to provide bulk transmission of capacity and energy from the Point of Interconnection.

“Interim Interconnection Service” means Interconnection Service that allows the Interconnection Customer to connect its Generating Facility to the Interconnection Provider’s system and be eligible to deliver the Generating Facility’s electric output on a temporary basis while the Interconnection Customer’s Generator Interconnection Request is being processed through the LGIP.

“Interim LGIA” means the agreement that governs the provision of Interim Interconnection Service, to include a Provisional LGIA or an Interim LGIA, as defined by the Interconnection Provider’s open access transmission tariff.

“Investment Grade Rating” means as the rating designated by one of the Credit Rating Agencies with a minimum long term issuer rating (\geq):

- As it pertains to Letter(s) of Credit:
 - BBB- from S&P; or
 - Baa3 from Moody’s; or
 - BBB- from Fitch Group;
- As it pertains to Surety Bonds:
 - bbb- from A.M. Best;
- As it relates to a Buyer, a minimum investment grade rating defined as:
 - BBB- from S&P; or
 - Baa3 from Moody’s; or
 - BBB- from Fitch Group;

“KU Percentage” means 61%.

“kW” means one or more kilowatts of electricity, as the context requires.

“Large Generator Interconnection Agreement” (LGIA) shall mean the form of interconnection agreement applicable to an Generator Interconnection Request

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pertaining to a Large Generating Facility that is included in the Interconnection Provider's tariff.

"Large Generator Interconnection Procedures" (LGIP) shall mean the interconnection procedures applicable to an Generator Interconnection Request pertaining to a Large Generating Facility that are included in the Interconnection Provider's tariff.

"LD Avoided Cost Input" means with respect to an Availability Day the greater of (i) zero or (ii) the amount that results from subtracting the Solar Energy Payment Rate from Avoided Energy Cost as of such Availability Day.

"LD Monetary Factor" has the meaning set forth in Section 8.3(C).

"LD REC Input" means with respect to an Availability Day the lowest available offer or ask price of a green-e certified REC in Kentucky and its adjoining states and such other states, if any, which Buyers agree in writing to include for such purpose, as of such Availability Day.

"LG&E Percentage" means 39%.

"Local Provider" has the meaning assigned to it in Section 1.3.

"Maximum Production Amount" means a production amount of [REDACTED] MWh during a Year.

"Minimum Demonstrated Capacity" means [REDACTED] MWac.

"Monthly Billing Period" means the period during any particular calendar month in which either Test Energy and/or Solar Energy Output has been generated by Seller for Buyers and delivered to the Point of Interconnection for sale to Buyers, whether or not occurring prior to or subsequent to the Commercial Operation Date.

"Moody's" means Moody's Investors Service, Inc. Moody's Analytics, Inc. and their affiliates.

"Month" means a calendar month.

"MW" means megawatt or one thousand kW.

"MWac" means megawatt alternating current.

"MWh" means megawatt hours.

"NERC" means the North American Electric Reliability Council or any successor organization.

"Non-Governmental Compliance Obligations" means all obligations to comply with existing national and regional reliability standards and rules and regulations

related to transmission system reliability and set by entities that are not Governmental Authorities, including standards set by NERC, Seller's ITO, and any RE and any successor agencies.

"Non-Scheduled Maintenance Period" has the meaning assigned to it in Section 10.4(A).

"O&M Records" has the meaning assigned to it in Section 13.2(A).

"Party" and "Parties" have the meanings set forth in the preamble above.

"Person" means any natural person, corporation, limited liability company, general partnership, limited partnership, proprietorship, other business organization, trust, union, association or Governmental Authority.

"Point of Interconnection" means the electric system point at which Seller makes available to Buyer and delivers to Buyer the Solar Energy Output being provided by Seller to Buyer under this PPA. The Point of Interconnection is also the physical point at which electrical interconnection is made between the Facility and the Interconnection Provider's System.

"PPA" means this Agreement.

"Prime Rate" shall mean the prime rate (or base rate) reported in the Money Rates column or section of The Wall Street Journal as being the base rate on corporate loans at large U.S. money center commercial banks (whether or not such rate has actually been charged by any such bank) on the first day on which The Wall Street Journal is published in the month in which the subject sums are payable or incurred.

"Production Model" means an as-built energy model prepared by the Seller's construction lender's independent engineer, which model shall include the variables and use the methodology set forth on Exhibit D, and such other variables as such independent engineer determines should be included, and such other adjustments as the Parties may mutually determine.

"Projected Schedule" has the meaning assigned to it in Section 7.2(A).

"Provisional Generator Interconnection Agreement" means the interconnection agreement for Provisional Interconnection Service established between Interconnection Provider's and the Interconnection Customer. This agreement shall take the form of the Large Generator Interconnection Agreement, modified for provisional purposes.

"Prudent Industry Practice(s)" means those practices, methods, equipment, specifications and standards of safety and performance, as the same may change from time to time, as are commonly used by operators of utility electric generation stations of a type and size similar to those constituting the Facility, which, in the exercise of reasonable judgment in light of the facts known at the time the decision is made, could

have been expected to accomplish the desired result at a reasonable cost, consistent with good, safe, and prudent engineering practices in connection with the operation, maintenance, repair, and use of equipment and facilities and commensurate standards of safety, performance, dependability, efficiency, and economy that conform to all material operation and maintenance standards recommended by the Facility's equipment suppliers and manufacturers and Applicable Law. Prudent Industry Practices are not intended to be limited to the optimum practice or method to the exclusion of others, but rather to be a spectrum of possible but reasonable practices and methods.

"PSC" means the Kentucky Public Service Commission and any successor entity thereto.

"Receiving Party" has the meaning ascribed to it in Section 20.12(A).

"Receiving Party's Representatives" has the meaning assigned to it in Section 20.12(B).

"Reliability Coordinator" means the entity that is the highest level of authority responsible for the reliable operation of the transmission system, has the wide area view of the transmission system, and has the operating tools, processes and procedures, including the authority to prevent or mitigate emergency operating situations in both next-day analysis and real-time operations.

"Renewable Energy Benefits" means any and all renewable and environmental attributes, emissions reductions, credits, offsets, allowances reporting rights and benefits, howsoever entitled, associated with the production of the Solar Energy Output, and includes any and all Renewable Energy Certificates and Renewable Energy Benefits Reporting Rights. Renewable Energy Benefits exclude and do not include any Tax Credits or other tax incentives existing now or in the future associated with the construction, ownership or operation of the Facility.

"Renewable Energy Benefits Reporting Rights" means the exclusive right of a purchaser of Renewable Energy Benefits to report exclusive ownership of Renewable Energy Benefits in compliance with federal or state Law, if applicable, and to federal or state agencies or other parties at such purchaser's discretion, and include reporting under Section 1605(b) of the Energy Policy Act of 1992, under regulations of the Environmental Protection Agency under Clean Air Act Amendments Section 111(d), and under any present or future domestic, international, or foreign emissions trading program or renewable portfolio standard.

"Renewable Energy Certificate" or "REC" means a unit that represents all of the non-power attributes from one MWh of electricity generation from a renewable generating unit including the property rights to the environmental, social and other non-power attributes of a renewable electricity generation portfolio energy system or efficiency measure that the Facility is entitled to receive pursuant to Applicable Law, including the Renewable Energy Law.

“Renewable Energy Law” means an act of the Kentucky Legislature, if any, relating to energy and requiring certain providers of electric service to comply with the portfolio standard for renewable energy, and providing for other matters relating thereto, in each case as such Laws, regulations, guidance and requirements may be amended, preempted or superseded.

“Required Commercial Operation Date” means December 31, 2021, subject to adjustment as described in Section 4.1.

“Restoration” has the meaning assigned to it in Section 14.5(B).

“Restoration Report” has the meaning assigned to it in Section 14.7.

“Restoration Schedule” has the meaning assigned to it in Section 14.5(B).

“RE” means any regional entity with jurisdiction over Seller as a generator of electricity and operator of the Facility.

“SCC” means system control center, the Buyers’ representative(s) responsible for dispatch of generating units and scheduling energy and capacity from the Facility.

“Scheduled Maintenance Outage” means a time during which the Facility is shut down or its output reduced to undergo scheduled maintenance in accordance with this PPA, or as otherwise agreed by Seller and Buyers.

“Seller’s Conditions Precedent” is defined in Section 6.1.

“Seller’s Interconnection Facilities” means the equipment between the single collection point for the A/C wiring from the output of the project inverters and the Point of Interconnection as well as all transmission facilities required to access the Interconnection Provider’s System at the Point of Interconnection, along with any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of such facilities. On the low side of the step-up transformer, it includes Seller’s relays, and load control equipment as provided for in the Interconnection Agreement.

“Seller’s Tier 1 CPs” is defined in Section 6.1.

“Seller’s Tier 2 CP” is defined in Section 6.1.

“Seller’s Tier 3 CPs” is defined in Section 6.1.

“Seller’s Tier 4 CP” is defined in Section 6.1.

“Seller’s Tier 1 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Seller’s Tier 2 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Seller’s Tier 3 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Seller’s Tier 4 CP Confirmation Notice” has the meaning ascribed to it in Section 6.3.

“Seller Credit Support” has the meaning ascribed to it in Section 11.1.

“Seller Delivery Excuse” shall mean: (i) any breach by a Buyer of its obligations under the PPA, (ii) any delay or failure by a Buyer in giving any approval such Buyer is required to give under this PPA by the time by which such Buyer required is required to give such approval under this PPA, or (iii) any delay or failure of a Buyer to accept Solar Energy Output or Renewable Energy Benefits as required under this PPA (1) because of any failure of such Buyer to obtain or maintain adequate transmission arrangements, or (2) because of any failure of such Buyer to comply with Applicable Law; in each case, to the extent that any of the foregoing actually and proximately prevents the Seller, in whole or in part, from performing any of its obligations or satisfying any conditions under this PPA.

“Seller Entities” has the meaning ascribed to it in Section 17.1.

“Seller Uncontrollable Minutes” means a reduction of, or cessation in the delivery of, or inability to deliver, Solar Energy Output that would not occur but for one or more of (i) a Force Majeure event, (ii) a Seller Delivery Excuse, (iii) an Emergency Condition, or (iv) to the extent not caused by Seller’s actions, any curtailment of the Facility by a Buyer, an ITO, the Interconnection Provider or any other Person or the Interconnection Provider; provided, however, that if any of the events described above in items (i) through (iv) occur simultaneously, then the relevant period of time shall only be counted once in order to prevent double counting. Seller Uncontrollable Minutes shall not include minutes when (i) the Facility or any portion thereof was unavailable solely due to Seller’s non-conformance with the Interconnection Agreement or (ii) the Facility or any portion thereof was paused or withdrawn from use by Seller for reasons other than those covered in this definition.

“SERC” means SERC Reliability Corporation or any successor entity.

“Site” means the parcel of real property on which the Facility will be constructed and located, including any easements, rights of way, surface use agreements and other interests or rights in real estate reasonably necessary for the construction, operation and maintenance of the Facility.

“Solar Energy” means the electric energy generated by the Facility using solar electric generation technologies.

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“Solar Energy Output” means the net unit contingent electric energy generated in MWh using solar electric generation technologies delivered at nominal voltage to the Point of Interconnection as measured by the Electric Metering Devices installed pursuant to Section 5.3. Solar Energy Output shall be of a power quality of 60 cycle, three-phase alternating current that is compliant with the Interconnection Agreement.

“Solar Energy Payment” has the meaning assigned to it in Section 8.1(A).

“Solar Energy Payment Rate” means \$ [REDACTED].

“Standard and Poor’s” or “S&P” means Standard and Poor’s Ratings Group, a division of McGraw Hill, Inc. and any successor entity thereto.

“Surety Bond” means a bond that is issued by a surety or insurance company that promises to pay a specified amount to Buyers upon certain events, which include, but are not limited to, when the Seller fails to perform a payment obligation under this Agreement and which the surety or insurance company so issuing shall (i) be authorized to issue surety bonds in the Commonwealth of Kentucky, (ii) have assets of at least [REDACTED] and (iii) have an Investment Grade Rating as defined in this Agreement.

“Tax Credits” means investment tax credits under Section 48 of the Code as in effect on the date of this PPA, and any successor or other provision providing for a federal, state or local tax credit, cash grant, tax exemption, depreciation, tax attribute or benefit or similar program determined by reference to ownership of renewable energy production facilities, renewable electric energy produced from Solar Energy or amounts invested in renewable energy generating facilities.

“Taxes” means all taxes, fees, levies, licenses or charges imposed by any Governmental Authority, other than taxes, levies, licenses or charges based upon net income or net worth.

“Term” means the period during which this PPA shall remain in full force and effect, and which is further defined in Article 2.

“Test” or “Testing” means those tests, evaluations and measurements of the Facility’s output capability that are undertaken in connection with the Commissioning of the Facility pursuant to Section 10.2 of this PPA, which shall include such tests as are consistent with Prudent Industry Practices and that are required by the Financing Documents, applicable permits, and the EPC Contract.

“Test Date” means the date on which Seller shall commence Commissioning of the Facility.

“Test Energy” means the Solar Energy Output that is generated by the Facility, delivered to Buyers at the Point of Interconnection, and purchased by Buyers, pursuant to Section 10.2(C) and Section 4.3.

“Test Period Transmission Service” means transmission service which would allow energy to flow from the Point of Interconnection to the Buyers’ load.

6.3. “Tier 1 CP Termination Notice” has the meaning ascribed to it in Section

6.3. “Tier 2 CP Termination Notice” has the meaning ascribed to it in Section

6.3. “Tier 3 CP Termination Notice” has the meaning ascribed to it in Section

6.3. “Tier 4 CP Termination Notice” has the meaning ascribed to it in Section

“Year” means a calendar year.

ARTICLE 2 Term and Termination

This PPA shall become effective as of the Effective Date and shall remain in full force and effect until the twenty (20) year anniversary of the Commercial Operation Date, subject to early termination or any extension provisions set forth herein. Applicable provisions of this PPA shall continue in effect after termination, including early termination, to the extent necessary to enforce or complete the duties, obligations or responsibilities of the Parties arising prior to termination and, as applicable, to provide for: final billings and adjustments related to the period prior to termination, repayment of any money due and owing to either Party pursuant to this PPA, repayment of principal and interest associated with security funds, and the indemnifications specified in this PPA. The Term of this PPA may be extended only upon the written agreement of Seller and Buyers.

ARTICLE 3 Facility Description

3.1 Summary Description. Subject to the satisfaction or waiver of the Seller’s CPs, Seller shall construct, own, operate, and maintain the Facility and associated equipment having an aggregate maximum power output of the Facility Capacity.

3.2 General Design of the Facility. Seller shall construct the Facility in accordance with Prudent Industry Practice(s) and in compliance with the terms and conditions of the Interconnection Agreement, Applicable Law, and applicable Permits. During Commercial Operation, Seller shall maintain the Facility according to Prudent Industry Practice(s) and the Interconnection Agreement. In addition to the requirements of the Interconnection Agreement, the Facility shall at all times:

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- (A) have the required panel space to accommodate metering, generator telemetering equipment and communications equipment;
- (B) have remote monitoring facilities; and
- (C) have no fewer than four (4) suitable solar radiation meters necessary to characterize the solar resource and site ambient conditions, including plane of array irradiance (POAI), global horizontal irradiance (GHI), temperature, pressure and humidity.

3.3 Facility Capacity Adjustment.

(A) If Seller has executed an Interim LGIA prior to the start of construction of the Facility, Seller may, during its use of Interim Interconnection Service, decrease the Facility Capacity to the amount permitted to be interconnected pursuant to such Interim LGIA by providing Buyers with written notice of such adjustment. In such event, the Facility Capacity shall, during Seller's use of Interim Interconnection Service, be no less than [REDACTED] percent ([REDACTED]%) of the amount allowed under the Interim LGIA. Seller shall thereafter be entitled to increase the Facility Capacity up to the amount that Seller is authorized to interconnect pursuant to an LGIA to be executed by Seller (but not to exceed 100 MWac).

(B) Unless decreased as set forth in this Section 3.3(B), the Facility Capacity following the Commercial Operation Date, except during Interim Interconnection Service, shall be 100 MWac. Prior to Seller's notice to its EPC contractor to commence construction, Seller may, on one occasion only, decrease the Facility Capacity by providing Buyer with written notice of such adjustment; provided, however, that Seller may not decrease the Facility Capacity to below the Minimum Demonstrated Capacity without Buyer's prior written consent, which Buyer may withhold in its sole discretion.

ARTICLE 4 Commercial Operation

4.1 Completion by Required Completion Date.

(A) Seller shall cause the Facility to achieve the Commercial Operation Date no later than the Required Commercial Operation Date; provided, that Seller shall not be obligated to establish a Commercial Operation Date under this PPA that is earlier than the Required Commercial Operation Date.

(B) The Required Commercial Operation Date shall be extended, day-for-day, for (i) each day during which a Force Majeure event has occurred and is continuing (but not more than a maximum of 180 Days for all events of Force Majeure in the aggregate); (ii) each Day after a date on or before which Section 6.2 states that a Buyers' Conditions Precedent should occur and before the date that Buyers deliver Buyers' CP Confirmation Notice with respect to such Buyers' Conditions Precedent; and (iii) each Day after a date on or before which Section 6.1 states that a Seller's Conditions Precedent should occur and before the date that Seller has delivered Seller's CP

Confirmation Notice with respect to such Seller's Conditions Precedent (but not more than a maximum of ninety (90) days in the aggregate); provided that a Day meeting more than one of the above three (3) descriptions shall still be counted as just one Day for purposes of such extension.

4.2 Commercial Operation.

"Commercial Operation" means that:

(A) Commissioning has been completed and the Demonstrated Capacity has been determined by the Tests to be at least the Minimum Demonstrated Capacity of Solar Energy at the Point of Interconnection, as adjusted for the level of solar irradiation and ambient conditions at the time of the Commissioning Test;

(B) the Facility is fully operational and reliable and the Facility is fully interconnected, fully integrated, and synchronized with the Interconnection Provider's System, and is able to generate electric energy reliably in amounts expected by this Agreement and in accordance with all other terms and conditions hereof, evidence of which shall be Seller's responsibility to receive or obtain and deliver to Buyers;

(C) Buyers shall have received a certificate addressed to Buyers from a senior officer of Seller familiar with the Facility, attaching documentation and/or certifications from a registered professional engineer familiar with the Facility, stating:

(i) the conditions in clauses "(A)" and "(B)" above have been satisfied, and

(ii) all required Interconnection Facilities have been constructed, all required interconnection tests have been completed and the Facility is physically interconnected with the Interconnection Provider's System in conformance with the Interconnection Agreement and able to deliver energy consistent with the terms of this Agreement.

(D) Seller shall have demonstrated to Buyers' reasonable satisfaction that it can reliably transmit real time data and measurements from solar radiation meters to Buyers.

(E) Seller shall have furnished the Seller Credit Support.

(F) Seller shall have furnished certificates of insurance evidencing the coverages required by Article 16 have been obtained and submitted to Purchaser.

4.3 Test Energy. If Seller obtains Test Period Transmission Service, Seller shall coordinate the production and delivery of Test Energy with Buyers, including providing Buyers with prior notice of delivery as Buyers may reasonably request. Buyers shall cooperate with Seller to facilitate Testing of the Facility. If Seller obtains Test Period Transmission Service, Buyers shall accept delivery of Test Energy, provided that the

Facility is installed and interconnected in accordance with the Interconnection Agreement, and Buyers shall purchase such Test Energy delivered to the Point of Interconnection and beyond in accordance with Test Period Transmission Service at the Solar Energy Payment Rate.

ARTICLE 5 Delivery and Metering

5.1 Delivery Arrangements. Seller shall be responsible for all interconnection and transmission arrangements and costs required to deliver the Solar Energy Output and Test Energy from the Facility to Buyers at the Point of Interconnection at the required voltage. Buyers shall be responsible for all transmission arrangements and costs or charges, if any, imposed in connection with the delivery of Solar Energy Output at and from the Point of Interconnection, including transmission costs, transmission line losses, ancillary service arrangements and costs, control area or generator imbalance services, imbalance charges and associated penalties. Seller shall bear no responsibility related to delivery past the Point of Interconnection or any ancillary, control area or generator imbalance services required pursuant to Buyers' open access transmission tariff or any other transmission utility, regional transmission organization, NERC, the RE or any other entity. Seller shall diligently negotiate an Interconnection Agreement with the Interconnection Provider and post and maintain any and all security for payment and performance, if, when and for so long as required under the Interconnection Agreement.

5.2 Availability Reporting. Seller shall be responsible for providing accurate and timely updates on the current availability of the Facility to Buyers' SCC. Seller shall notify the SCC by telephone call (with confirmation in each case to follow by written notice or other form of documentation as agreed upon by both Parties) immediately upon discovering that the Facility is unable to deliver all or part of any scheduled quantity of Solar Energy Output due to a Forced Outage and, as soon as reasonably practicable following such discovery, shall notify the SCC in writing of its best estimate of the expected duration of such Forced Outage. Such estimate by Seller shall be based on the best information available to it. Should Seller expect any further changes in the duration of any such Forced Outage, it shall promptly notify the SCC of the same.

5.3 Electric Metering Devices. With respect to this Section 5.3, and notwithstanding the general applicability of the interpretive provisions of Section 1.2(B), the metering provisions of the Interconnection Agreement (including Article 7 thereof) are incorporated herein by reference and Buyers agree that Seller shall retain all of its rights thereunder without regard to any separateness of Buyers and the Interconnection Provider. Accordingly, electric metering shall be in compliance with the Interconnection Agreement. Seller will grant Buyers access to all metering data and other meter information, including testing, on same basis as available to Seller.

5.4 Interconnection Information. To the full extent authorized by FERC regulations and the FERC standards of conduct, Seller hereby authorizes Buyers to contact and obtain information concerning the Facility and Interconnection Facilities

directly from the Interconnection Provider and, to the extent necessary, Seller shall provide written notice to the Interconnection Provider confirming such authorization.

ARTICLE 6

Conditions Precedent

6.1 Seller's Condition Precedent. This Section 6.1 describes certain conditions precedent to Seller's obligations under this PPA (collectively, the "Seller's Conditions Precedent"), each of which Seller shall pursue diligently with commercially reasonable efforts:

(A) Seller's obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of each of Seller's Conditions Precedent described in this Section 6.1(A) (collectively the "Seller's Tier 1 CPs") on or before March 31, 2020:

- (i) Seller shall have executed such easements, rights-of-way and other real estate contracts as may be necessary for the transmission line from the solar project to and including the Point of Interconnection;
- (ii) Seller shall have received a Phase I environmental site assessment for the Site that is reasonably satisfactory to Seller;
- (iii) Seller shall have received a preliminary title report with regard to the Site that does not include any third party encumbrances unacceptable to Seller;
- (iv) Seller shall have received a private letter ruling or other assurances from the Kentucky Department of Revenue that it will use a cost approach, which is the net book value of the hard assets plus the fair market value of leased real and tangible property plus or minus cash working capital, to value the Facility during its expected life; and
- (v) the Buyers' Tier 1 CP shall have been satisfied without any requirement to modify the terms of this Agreement and without any conditions unacceptable to Seller.

(B) Seller's obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of Seller's Condition Precedent described in this Section 6.1(B) ("Seller's Tier 2 CP") on or before June 30, 2020:

- (i) Seller shall have received all siting, zoning, planning commission, conditional use or other discretionary permits and other Governmental Approvals necessary for the construction and operation of the Facility, and such permits

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and Governmental Approvals have become final and non-appealable.

(C) Seller's obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of each of Seller's Conditions Precedent described in this Section 6.1(C) (collectively the "Seller's Tier 3 CPs") on or before December 31, 2020; provided, however, that if the Seller's Tier 2 Confirmation Notice is issued after June 30, 2020, then, without affecting any termination right of either Party with respect to a delay in Seller's Tier 2 Confirmation Notice, the date by which Seller must satisfy Seller's Tier 3 CPs in Section 6.1(C)(i) shall be extended on a day-for-day basis, with such extended date treated for purposes of Section 4.1(B) as the date on or before which this Section 6.1 states that Seller's Tier 2 CP should occur:

- (i) Seller shall have received approval for the Facility under the Kentucky Public Service Commission Electric Generation and Transmission Siting Board Energy, and such approval shall be final and non-appealable;
- (ii) Seller shall have received a report from Buyers' ITO confirming that the aggregate non-refundable or non-creditable cost to Seller for interconnection, network, affected system and other upgrades is reasonably expected not to exceed [REDACTED];
- (iii) Seller shall have received a report from Burns & McDonnell or such other engineering firm engaged by Seller confirming that the aggregate non-refundable or non-creditable cost to Seller for interconnection, network, affected system and other upgrades is reasonably expected not to exceed [REDACTED];
- (iv) Buyers shall provide Seller written affirmation that: (A) Buyers have achieved Network Resource designation for the generating facility and has obtained appropriate Network Integration Transmission Service for the generating facility; and
- (v) Seller shall have executed (i) a LGIA that allows for a Facility Capacity of at least [REDACTED] MWac and provides for a construction schedule that will allow the Seller to achieve the Required Commercial Operation Date or (ii) an Interim LGIA consistent with Section 3.3(B).

(D) Seller's obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of Seller's Condition Precedent described in this Section 6.1(D) (the "Seller's Tier 4 CP") on or before March 31, 2021:

- (i) Financial Closing has occurred.

6.2 Buyers' Condition Precedent. This Section 6.2 describes certain conditions precedent to Buyers' obligations under this PPA (collectively, the "Buyers' Conditions Precedent"), each of which Buyer shall pursue diligently with commercially reasonable efforts:

(A) Buyers obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of the Buyers' Condition Precedent described in this Section 6.2(A) (the "Buyers' Tier 1 CP") on or before March 31, 2020:

- (i) Buyers shall have received all permits and approvals, and shall have satisfied all other requirements under Applicable Law, including the Commission Approvals.

(B) Buyers obligations under this PPA are, subject to Section 6.3 below, conditioned upon the occurrence of each of the Buyers' Conditions Precedent described in this Section 6.2(B) (collectively, the "Buyers' Tier 3 CPs") on or before December 31, 2020:

- (i) Interconnection Provider shall have qualified the Facility as a Designated Network Resource and Buyers are capable of scheduling the entire Facility Capacity as a Designated Network Resource; and
- (ii) Buyers shall have secured unconditional firm network transmission service from the Point of Interconnection to Buyer's load for the Term.

6.3 Failure of Condition Precedent.

(A) Tier 1 CPs. The Tier 1 Seller's CPs and Tier 1 Buyers' CP (collectively the "Tier 1 CPs") shall be deemed satisfied upon (i) delivery by Seller to Buyers of a written notice stating that Seller has achieved or waived all Tier 1 Seller's CPs and that Seller does not object to any conditions of the approvals on which the Tier 1 Buyers' CP is based (the "Seller's Tier 1 CP Confirmation Notice"); and (ii) delivery by Buyers to Seller of a written notice stating that Buyers have achieved or waived all Tier 1 Buyers' CPs and that Buyer does not object to any conditions of the approvals on which the Tier 1 Buyers' CP is based (the "Buyers' Tier 1 CP Confirmation Notice"). If the Seller's Tier 1 CP Confirmation Notice and/or the Buyers' Tier 1 CP Confirmation Notice are not delivered by March 31, 2020, either Party may deliver a termination notice to the other Party (a "Tier 1 CP Termination Notice") with such termination effective on the date sixty (60) days following such Tier 1 CP Termination Notice unless the Party that did not deliver the CP Confirmation Notice that is the subject of such Tier 1 CP Termination Notice by March 31, 2020 delivers such CP Confirmation Notice before the end of such sixty (60) day period, in which case the Tier 1 CP Termination Notice shall be automatically rescinded and this Agreement shall continue in full force and effect. Either Party may provide a Tier 1 CP Termination Notice with immediate effect at any time prior

March 31, 2020 if it reasonably determines that such Party's Tier 1 CPs will not be achieved by March 31, 2020.

(B) Tier 2 CPs. The Tier 2 Seller's CP shall be deemed satisfied upon delivery by Seller to Buyers of a written notice stating that Seller has achieved or waived all Tier 2 Seller's CPs (the "Seller's Tier 2 CP Confirmation Notice"). If the Seller's Tier 2 CP Confirmation Notice is not delivered by June 30, 2020, either Party deliver a termination notice to the other Party (a "Tier 2 CP Termination Notice") with such termination effective on the date sixty (60) days following such Tier 2 CP Termination Notice unless, before the expiration of such sixty (60) day period, Seller delivers the Seller's Tier 2 CP Confirmation Notice, in which case the Tier 2 CP Termination Notice shall be automatically rescinded and this Agreement shall continue in full force and effect. Seller may provide a Tier 2 CP Termination Notice with immediate effect at any time prior June 30, 2020 if it reasonably determines that any Tier 2 Seller's CPs will not be achieved by June 30, 2020.

(C) Tier 3 CPs. The Tier 3 Seller's CPs and Tier 3 Buyers' CPs (collectively the "Tier 3 CPs") shall be deemed satisfied upon (i) delivery by Seller to Buyers of a written notice stating that Seller has achieved or waived all Tier 3 Seller's CPs (the "Seller's Tier 3 CP Confirmation Notice") and (ii) delivery by Buyers to Seller of a written notice stating that Buyers have achieved or waived all Tier 3 Buyers' CPs (the "Buyers Tier 3 CP Confirmation Notice"). Subject to any extension as described in Section 6.1(C), if the Seller's Tier 3 CP Confirmation Notice and/or the Buyers' Tier 3 CP Confirmation Notice are not delivered by December 31, 2020, either Party may deliver a termination notice to the other Party (a "Tier 3 CP Termination Notice") with such termination effective on the date sixty (60) days following such Tier 3 CP Termination notice unless the Party that did not deliver the CP Confirmation Notice that is the subject of such Tier 3 CP Termination Notice by December 31, 2020 delivers such CP Confirmation Notice before the end of such sixty (60) day period, in which case the Tier 3 CP Termination Notice shall be automatically rescinded and this Agreement shall continue in full force and effect. Either Party may provide a Tier 3 CP Termination Notice with immediate effect at any time prior December 31, 2020 if it reasonably determines that such Party's Tier 3 CPs will not be achieved by December 31, 2020.

(D) Tier 4 CPs. The Tier 4 Seller's CP shall be deemed satisfied upon delivery by Seller to Buyers of a written notice stating that Seller has achieved or waived all Tier 4 Seller's CPs (the "Seller's Tier 4 CP Confirmation Notice"). If the Seller's Tier 4 CP Confirmation Notice is not delivered by March 31, 2021, either Party may deliver a termination notice to the other Party (a "Tier 4 CP Termination Notice") with such termination effective on the date sixty (60) days following such Tier 4 CP Termination notice unless, before the expiration of such sixty (60) day period, Seller delivers the Seller's Tier 4 CP Confirmation Notice, in which case the Tier 4 CP Termination Notice shall be automatically rescinded and this Agreement shall continue in full force and effect. Seller may provide a Tier 4 CP Termination Notice with immediate effect at any time prior December 31, 2021 if it reasonably determines that any Tier 4 Seller's CPs will not be achieved by December 31, 2021.

(E) Upon the effectiveness of any termination as provided in this Section 6.3, this Agreement shall terminate without any liability for any Party.

ARTICLE 7

Sale and Purchase of Solar Energy Output and Renewable Energy Benefits

7.1 Sale and Purchase of Solar Energy Output and Capacity.

(A) Beginning on the Commercial Operation Date, Seller shall generate from the Facility, deliver to the Point of Interconnection, and sell to Buyers all the Solar Energy Output not exceeding the Facility Capacity and all of the Renewable Energy Benefits produced by the Facility in connection with such Solar Energy Output, LG&E shall purchase the LG&E Percentage of such Solar Energy Output and Renewable Energy Benefits, and KU shall purchase the KU Percentage of such Solar Energy Output and Renewable Energy Benefits, all as provided in Section 8.1.

(B) As between Seller and Buyers, Seller shall be in control of the Solar Energy Output and Test Energy from the Facility up to and until delivery and receipt at the Point of Interconnection and Buyers shall be in control of such energy from and after delivery and receipt at the Point of Interconnection. Title and risk of loss related to the Solar Energy Output and Test Energy shall transfer from Seller to Buyers at the Point of Interconnection.

(C) Ownership by Buyers of Renewable Energy Benefits as set forth in Section 7.1(A) shall be for the entire Term of this PPA, including any Renewable Energy Benefits that are reserved or “banked” throughout the Term of this PPA, but not used, sold, assigned or otherwise transferred during the Term of this PPA. Each Buyer may, to the extent permitted by Applicable Law and this PPA, assign its rights, title and interest in and to any Renewable Energy Benefits obtained under Section 7.1(A) (but not any payment obligation) to one or more third parties under any transaction permitted by Applicable Law. Any financial or other compensation received by Buyers from the disposition of Renewable Energy Benefits Reporting Rights held by Buyers as set forth in Section 7.1(A) shall inure solely to the benefit of Buyers.

(D) Tax Credits in effect on the date of this PPA or arising hereafter shall be accrue solely to the benefit of Seller.

(E) Seller and Buyers shall execute all documents and instruments necessary to effect the transfer of the Renewable Energy Benefits to Buyers or their respective designees, including those required for compliance with all Applicable Laws, including a Renewable Energy Law, if enacted, and all rules and regulations established by any Person for the issuance and tracking of RECs, and the PSC. Without limiting the generality of the foregoing, Seller shall, within a reasonable time after the effective date of any Renewable Energy Law, obtain for the Facility such designation as is required under such Renewable Energy Law for the transfer of the Renewable Energy Benefits to

Buyers or their respective designees in accordance with such Renewable Energy Law; provided that Seller shall not be required to incur costs in obtaining such designation to the extent such costs are materially greater than the costs of obtaining a comparable designation under Renewable Energy Laws in other states in general.

(F) Subject to Section 7.1(G), from time to time, the Buyers may, by 30 days' written notice to Seller, change the LG&E Percentage and KU Percentage, subject to the following conditions:

- (1) the sum of the LG&E Percentage and the KU Percentage following such change shall be equal to one hundred percent (100 %);
- (2) the Buyer for which the percentage will increase is not subject to a Credit Event; and
- (3) the Buyers have obtained any and all Governmental Approvals required for such change.

(G) A change requested under Section 7.1(F) that satisfies the conditions stated in Section 7.1(F) shall become effective on the first Day of the Month following the month in which the thirtieth (30th) Day following Buyers' notice falls, at which time this PPA shall be deemed amended with respect to the LG&E Percentage and KU Percentage.

7.2 Scheduling.

(A) Scheduling shall be on a "must-take" basis, except to the extent that the Solar Energy Output of the Facility is reduced as a result of Forced Outages, Scheduled Maintenance Outages, Additional Maintenance Outages, Force Majeure events and Emergency Conditions. At least thirty (30) Days prior to the anticipated Commercial Operation Date, Seller shall provide Buyers with a good faith estimate of the quantity of Solar Energy Output that it expects to generate for the remainder of that Year and the following Year if Commercial Operation Date is after October 1 in the Year that the Commercial Operation Date is achieved. By October 1 of each succeeding Year, Seller shall provide Buyers with a good faith estimate of the hourly quantities of Solar Energy Output that Seller expects to generate in the following Year (the "Projected Schedule").

(B) Seller shall provide to Buyers its good faith, non-binding estimates of the daily quantity (by hour) of Solar Energy Output to be delivered by Seller to the Point of Interconnection for the following three (3) Month period by 4:00 p.m. EST on the date falling at least three (3) Days prior to the beginning of that Month.

(C) If, at any time following submission of a good faith estimate as described in Section 7.2(B), Seller becomes aware of any change that materially alters the values previously provided to Buyers, Seller shall promptly notify Buyers of such change or predicted change.

7.3 No Sale to Third Parties. Except as provided in Section 8.2, all of the Solar Energy Output and Renewable Energy Benefits shall be dedicated exclusively to Buyers for so long as this Agreement is in force and effect. Seller shall not (a) sell, divert, grant, transfer or assign any Solar Energy Output, Renewable Energy Benefits, or Capacity Rights to any Person other than Buyer, (b) provide Buyer with any such items from any source other than the Facility or (c) divert, redirect or make available the Facility or any resource therefrom to another generating facility or any third party. The Parties agree that remedies at Law may be inadequate in the event of a breach of this Section 7.3, and Seller agrees that Buyer shall be entitled to seek without proof of actual damages, temporary, preliminary and permanent injunctive relief from any Governmental Authority of competent jurisdiction restraining Seller from committing or continuing any breach of this Section 7.3.

ARTICLE 8 Payment Calculations

8.1 Payments to Seller.

(A) Except as otherwise provided in this PPA, each Buyer shall pay Seller a monthly payment due and payable in each Monthly Billing Period in accordance with the invoicing procedures set forth in Section 9.1 equal to the following amount (the "Solar Energy Payment"): the sum, over all hours of the Monthly Billing Period, of the LG&E Percentage or the KU Percentage (as applicable), multiplied by the product of: (i) the Solar Energy Payment Rate; and (ii) the sum of Solar Energy Output (MWh) delivered to the Point of Interconnection from the Facility during that hour plus all Curtailed Energy during that hour; provided, however, if the aggregate Solar Energy Output during a Year includes Excess Solar Energy, then the portion of any Solar Energy Payment attributable to such Excess Solar Energy shall be determined as set forth above in this Section 8.1(A), but using the Excess Solar Energy Payment Rate in place of the Solar Energy Payment Rate.

(B) Test Energy Payment. Subject to Section 4.3, each Buyer shall pay Seller for Test Energy generated prior to the Commercial Operation Date by making a monthly payment due and payable in each Monthly Billing Period in accordance with the invoicing procedures set forth in Section 9.1, equal to the product of the LG&E Percentage or the KU Percentage (as applicable) of: (a) the Solar Energy Payment Rate; and (b) the amount of Test Energy (MWh) delivered during that Month.

8.2 Curtailed Energy.

(A) If (i) Seller cannot deliver Solar Energy Output because of a Seller Delivery Excuse; or (ii) delivery of Solar Energy Output is curtailed by a Buyer other than as a result of an Emergency Condition, then, if permitted pursuant to Applicable Law, Seller may offer such Solar Energy Output ("Curtailed Energy") and all Renewable Energy Benefits that would have been produced by the Facility had its generation not been so curtailed ("Curtailed Renewable Energy Benefits") to third-parties as may be interested and able to purchase such Solar Energy Output. If Seller sells any Curtailed Energy or

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Curtailed Renewable Energy Benefits then the amount payable by Buyers pursuant to Section 8.1(A) shall be reduced by the net revenue received by Seller pursuant to such sale. Seller shall not be in default hereunder if it does not sell (or offer for sale) any Curtailed Energy or Curtailed Renewable Energy Benefits.

(B) The Parties shall determine the quantity of Curtailed Energy and Curtailed Renewable Energy Benefits by taking into account the following: (1) during such periods, the actual levels of solar irradiation and ambient conditions as measured at the Site, or if such data is not available, using other available data determined using Prudent Industry Practices, (2) the incremental energy that would have been produced based on ambient conditions at the Site, and (3) the actual availability of the Facility.

8.3 Availability Guaranty.

(A) On or before sixty (60) days after the Commercial Operation Date, Seller shall provide Buyers with the Production Model. The Production Model shall be used to calculate the Expected Amount. If a Party believes that the Production Model is inaccurate, such Party may propose an adjustment to the Production Model, and if the Parties are not able to resolve such issues within sixty (60) Days of the initial notice of the suspected inaccuracy, then the Parties shall submit such dispute to an independent engineering company with experience with solar production models to resolve such issue.

(B) Seller guarantees that the actual Availability of the Facility shall be at least [REDACTED] percent ([REDACTED]%) (the "Guaranteed Availability") measured over each Availability Day. From time to time, Buyers may, if Buyers' data indicates that an Availability Unsatisfactory Day has occurred, request that Seller provide, and Seller shall provide, a report of the Expected Amount determined using the Production Model; provided that, outside of any Availability LD Cure Period or Availability Default Period, Buyers shall be limited to making such requests no more than five (5) times in any Month. If Seller does not achieve the Guaranteed Availability for any Availability Day, Buyers may provide Seller with written notice that the Facility did not achieve the Guaranteed Availability (an "Availability Underperformance Notice"). If an Availability Underperformance Notice is delivered, then: (i) if an Availability Satisfactory Day occurs during the Availability LD Cure Period, then Seller shall not be in default hereunder; and (ii) if an Availability Satisfactory Day does not occur during the Availability LD Cure Period, Seller shall, for each Availability Day occurring after the Availability LD Cure Period and before the earlier of (A) the occurrence of an Availability Satisfactory Day or (B) the termination or expiration of this PPA, pay liquidated damages to Buyers (pro-rata to each Buyer in proportion to the LG&E Percentage or KU Percentage, as applicable) equal to: (1) the Guaranteed Availability minus the actual Availability on such Availability Day; multiplied by (2) the Expected Amount during such Availability Day; multiplied by (3) the LD Monetary Factor for such Availability Day determined in accordance with Section 8.3(C).

(C) The "LD Monetary Factor" for an Availability Day is equal to the lesser of (i) [REDACTED] or (ii) the greater of (1) the LD Avoided Cost Input for such Availability Day or (2) the LD REC Input for such Availability Day. If items (1) and (2) in the preceding

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sentence are the same amount, item (ii) shall be such amount. If items (i) and (ii) are equal, the LD Monetary Factor shall be [REDACTED].

(D) In the event liquidated damages become due under Section 8.3(B) Buyers shall, no more frequently than once per calendar month, calculate and issue a statement to Seller for the amount due Buyers for the amount due under Section 8.3(B). Seller shall pay the amounts due under each such invoice within thirty (30) Days of receipt thereof.

(E) Each Party agrees and acknowledges that (i) the damages that Buyers would incur due to the Facility's failure to achieve the Guaranteed Availability would be difficult or impossible to predict with certainty, (ii) the amount contemplated by this provision are a fair and reasonable calculation of such damages, and (iii) without limiting remedies with respect to an Event of Default, the required payment by Seller under this Section 8.3 shall be Buyers' sole remedy for the matters covered by this Section 8.3. Occurrence where the actual Availability is less than the Guaranteed Availability shall not be an Event of Default, except as provided in Section 12.1(C)(vii).

8.4 Payment Support Requirement. Neither Party shall initiate any action before any Governmental Authority to deny recovery of payments under this PPA, and each Party shall use its best efforts to defend all terms and conditions of this PPA consistent with Applicable Law.

8.5 Survival on Termination. The provisions of this Article 8 shall survive the repudiation, termination or expiration of this PPA for so long as may be necessary to give effect to any outstanding payment obligations of the Parties due and payable prior to any such repudiation, termination or expiration.

ARTICLE 9
Billing and Payment Procedures

9.1 Statements and Payment of Electricity Payments.

(A) Seller shall read or have read on its behalf the Electric Metering Devices at the Points of Delivery at 11:59 p.m. EST on the last Day of each Month, unless otherwise mutually agreed by the Parties.

(B) On or before the tenth Day of each Month following the Month in which the Commercial Operation Date occurs, Seller shall prepare an invoice showing the Solar Energy Payment payable by each Buyer pursuant to Article 8 of this PPA (in Dollars) payable to Seller for the preceding Month. Each such invoice shall show information and calculations, in reasonable detail. Each Buyer shall pay Seller such invoiced amounts within thirty (30) Days of the date of delivery of such invoice.

(C) Subject to Section 4.3, beginning with the first Month following the Month in which any part of the Facility has been Commissioned until an invoice is required

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to be prepared pursuant to clause (B) above, Seller shall prepare an invoice showing the charges for Test Energy and Renewable Energy Benefits payable to Seller for the preceding Month. Each Buyer shall pay Seller such invoiced amounts within fifteen (15) Days of the date of such invoice.

(D) Each Buyer shall, subject to Sections 9.5 and 9.8, pay all invoices on or before the due date therein specified consistent with (C) above. If a Buyer should dispute a portion of the charges set forth on any invoice, it shall nonetheless pay all amounts not in dispute by the applicable due date.

(E) If any date on which any payment by Buyers would otherwise have been due is not a Business Day, then Buyers shall make such payment on the Business Day that immediately follows such payment date.

(F) In the event a Buyer directs Seller in writing to treat the other Buyer as the agent for billing purposes of the Buyer providing such direction, Seller shall, except as otherwise provided in this Section 9.1(F), direct its invoices under this PPA to the Buyer being identified as the agent of the other Buyer. Seller may request written confirmation of such an arrangement from the Buyer being designated as agent, and may condition such invoicing arrangement on receiving such confirmation. In the event one or both Buyers experience a Credit Event, Seller may thereafter decline to invoice either Buyer as agent for the other Buyer. The designation of a Buyer as the agent of the other Buyer shall have no effect on the obligations of the Buyers hereunder, including the LG&E Percentage or KU Percentage or the obligation to make payments due hereunder.

9.2 Miscellaneous Payments. Any amounts due to either Seller or Buyers under this PPA, other than those specified in Section 9.1 above, shall be paid within thirty (30) Days following receipt by the other Party of an itemized invoice from the Party to whom such amounts are due setting forth, in reasonable detail, the basis for such payment. If either Party is billed or credited for any charges, costs, fees, penalties, credits or other amounts properly payable by the other Party pursuant to the terms of this Agreement, the Party receiving such invoice shall deliver such invoice to the other Party and such other Party shall pay such invoice within thirty (30) days after receipt by the receiving Party.

9.3 Currency and Method of Payment. Notwithstanding anything contained in this PPA, all payments to be made by either Seller or Buyers under this PPA shall be made in Dollars in immediately available cleared funds by automated clearing house (ACH) or wire transfer into the relevant account specified in this PPA or, if no account is specified, into the account designated by the receiving Party by written notice consistent with Article 13 below.

9.4 Interest. Except where payment is the subject of a bona fide dispute (in which case it shall be treated under Section 9.5 below), if any payment due from Buyers to Seller or from Seller to Buyers under this PPA is not paid when due, then, in addition to such unpaid amount, interest shall be due and payable thereon. Applicable interest shall be the Prime Rate, and shall continue to accrue from the date on which Contractor

provided Buyers with notice that such payment became overdue to and until the date such payment is made in full (both dates inclusive).

9.5 Disputed Items.

(A) Either Party (the “Disputing Party”) may dispute in good faith the accuracy of a reading of the Electric Metering Devices and/or the accuracy of an invoice. Where a reading or bill is the subject of a dispute in good faith, the Disputing Party shall give written notice to the other Party within ten (10) Days after the delivery of the invoice or statement by the other Party, together with details of its reasons for such dispute. The Disputing Party shall make payment of any undisputed amounts to the other Party by the due date for payment specified in such invoice. Any amount or adjustment with respect to a meter reading subsequently agreed to by the Parties or determined to be due shall be made (in each case in settlement of a dispute) by a credit or additional charge on the next bill rendered (as the case may be).

(B) All amounts paid as a result of the settlement of a dispute shall, unless the terms of such settlement provide otherwise, be paid with interest thereon at the Prime Rate from the Day on which such payment originally fell due to and until the date such payment is made in full (both dates inclusive).

9.6 Statement Errors. In the event that either Party becomes aware of any error in any statement within one (1) year of the date of a statement, such Party shall, immediately upon discovery of the error, notify in writing the other Party of such error and shall rectify such error (whether such error was in the form of an underpayment or overpayment) within thirty (30) Days of such notification. Provided that the other Party is satisfied (in its sole and reasonable discretion) that the aforementioned notification requirements have been complied with in good faith by the Party who has made the error, no interest shall be payable in respect of any amount that was erroneously overpaid or underpaid. No adjustment to a billing statement shall be made if notice of an error in such statement is not provided within one (1) year of the date of such statement.

9.7 Taxes.

(A) All Solar Energy Output delivered by Seller to Buyers hereunder is on a wholesale basis. Buyers may use the Solar Energy Output for their own consumption or resell it to third parties. Buyers shall obtain and provide Seller with any certificates required by any Governmental Authority, or otherwise reasonably requested by Seller, to evidence that the deliveries of Solar Energy Output hereunder are sales for resale.

(B) Seller shall not be obligated to pay or reimburse Buyers for Taxes imposed on or measured by Buyers’ overall revenues or income. Each Buyer shall be responsible for the payment of, and no amount payable by Seller to a Buyer shall be subject to adjustment for, Taxes imposed on such Buyer and its property.

(C) If a Party is required to remit or pay Taxes that are the other Party’s responsibility hereunder, such Party shall promptly reimburse the other for such Taxes.

(D) The Parties shall provide each other, upon written request, with copies of any documentation that may be reasonably necessary in the ordinary course of any inter-governmental, state, local, municipal or other political subdivision tax audit inquiry or investigation.

(E) Consistent with Applicable Law, the Parties shall cooperate to minimize Taxes; however, no Party shall be obligated to incur any material financial burden to reduce Taxes for which the other Party is responsible hereunder.

9.8 Set-Off and Payment Adjustments. All payments between the Parties under this PPA shall be made free of any restriction or condition and without deduction or withholding on account of any other amount, whether by way of set-off or otherwise. Payments to be made under this PPA shall, for a period of not longer than two (2) years, remain subject to adjustment based on billing adjustments due to error or omission by either Party, provided that such adjustments have been agreed to between the Parties or resolved in accordance with the provisions of Section 20.14 hereof.

9.9 Security Deposit. In the event a Buyer fails to make (directly or through the other Buyer) timely payment of two (2) or more Monthly invoices of Seller in any twelve (12) month period, such Buyer shall provide Seller (following Seller's invoice for such amount) with a cash security deposit from such Buyer equal to the average amount of the previous twelve (12) monthly invoices to such Buyer, and Seller shall retain such security deposit until such time as such Buyer has timely paid twelve (12) consecutive Monthly invoices, during which time Seller may apply such funds towards any invoice that is not paid by such Buyer when due.

9.10 Survival on Termination. The provisions of this Article 9 shall survive the repudiation, termination or expiration of this PPA for so long as may be necessary to give effect to any outstanding payment obligations of the Parties that became due and payable prior to any such repudiation, termination or expiration.

ARTICLE 10

Operations and Maintenance

10.1 Construction of the Facility.

(A) Starting on the date that falls one Month after the earlier of the date on which construction of the Facility commences or the date upon which a notice to proceed under the EPC Contract is given in accordance with the terms of the EPC Contract and, thereafter, at Monthly intervals, Seller shall report to Buyers on the construction of the Facility during the previous Month and shall provide progress reports and an updated completion schedule for the Facility. Such Monthly reports shall provide a schedule showing items completed and to be completed and a best estimate time-frame within which Seller expects its contractor to complete such non-completed work. None of the foregoing shall be deemed to be in lieu of, or in substitution for, the general record and reporting obligations attendant to Seller in accordance with Article 13 hereof.

(B) Other than the rights and obligations of Buyers specified in this PPA and any documents ancillary hereto, neither this PPA nor any such ancillary document shall be interpreted to create in favor of Buyers, and each Buyer specifically disclaims, any right, title or interest in any part of the Facility.

10.2 Commissioning Tests.

(A) Seller shall coordinate testing plans with Buyers by providing a Testing plan at least thirty (30) days prior to the first anticipated Test Date, updates to such Testing plan on a weekly basis, and at least forty-eight (48) hours prior notice of the actual Test Date and of the proposed Tests scheduled relating to the Commissioning of the Facility, which tests shall include insulation resistance (Megger) testing for all MV AC conductors, DC feeders, and Homeruns in accordance with NETA ATS 2013 7.3.3 ("Commissioning Tests"). Representatives of each Buyer shall have the right to be present at all such Testing. Seller shall promptly notify Buyers of any changes to the Test Date or the date of any Commissioning Tests relating to the Facility in order that Buyers may arrange for their respective representatives to attend.

(B) The results of Commissioning Tests, including the use of testing consistent with standard ASTM E2848-13(2018) (Standard Test Method for Reporting Photovoltaic Non-Concentrator System Performance), shall determine the Facility's Demonstrated Capacity. Seller may conduct multiple Commissioning Tests to determine the highest Demonstrated Capacity.

(C) Subject to Section 4.3, Test Energy shall be delivered by Seller for Buyers at the Point of Interconnection, and Buyers shall purchase such Solar Energy Output as set forth in Section 8.1(B).

10.3 Maintenance of the Facility. Seller shall at all times maintain or cause to be maintained all Facility equipment in accordance with manufacturers' recommendations and Prudent Industry Practices and otherwise in accordance with this PPA or Interconnection Agreement.

10.4 Scheduled Maintenance.

(A) Three (3) Months prior to the Commercial Operation Date and, thereafter, by October 1 of each Year, Seller shall deliver to Buyers and SCC the Projected Schedule for the Facility for the subsequent annual period, including Scheduled Maintenance Outages. Seller shall take manufacturers' recommendations and Prudent Industry Practices into account when establishing the proposed schedule for Scheduled Maintenance Outages, which schedule shall correspond with the Projected Schedule. Seller shall use commercially reasonable efforts to not schedule Scheduled Maintenance Outages and/or Additional Maintenance Outages during the daytime hours during the Months of June, July, August, or September (the "Non-Scheduled Maintenance Period").

(B) Within thirty (30) Days of receiving the proposed schedule for Scheduled Maintenance Outages from Seller, Buyers may propose amendments thereto.

Seller shall not unreasonably withhold its consent to such proposed amendments, provided that, it shall not be unreasonable for Seller to withhold its consent to any such proposed amendments that would be contrary to Prudent Industry Practices.

(C) Seller shall be entitled to change any Scheduled Maintenance Outages for the then current Year upon notice to Buyers and SCC. Seller shall not unreasonably refuse to change the schedule of Scheduled Maintenance Outages if requested to do so by Buyers upon not less than fourteen (14) Days' prior notice, provided that any such change would not be contrary to Prudent Industry Practices or cause Seller to incur any material costs.

(D) Any maintenance outages that do not correspond to the descriptions contained in clauses (A)-(C) of this Section 10.4 shall be deemed to be Additional Maintenance Outages under Section 10.5.

10.5 Additional Maintenance Outages. As the need arises for Seller to conduct further maintenance on the Facility during which the Facility is shut down or its output reduced in addition to that conducted pursuant to Section 10.4 hereof ("Additional Maintenance Outages"), Seller shall notify Buyers of such required maintenance, together with proposed dates for carrying out such additional maintenance and the estimated duration of the work to be carried out. Unless deferral of such maintenance would cause an Emergency Condition, Seller shall prepare a schedule of such Additional Maintenance Outages based on Prudent Industry Practices taking into account the reasonable requests of Buyers to the extent reasonably possible. Seller shall use Prudent Industry Practices to avoid Additional Maintenance Outages during the Non-Scheduled Maintenance Period. Notwithstanding the foregoing, Additional Maintenance Outages that consist of washing photovoltaic panels to improve production of the Facility may be performed by Seller upon written notice to Buyers.

10.6 Access to and Inspection of Facility.

(A) Seller shall provide Buyers and their authorized agents, employees and inspectors with reasonable access to the Facility for the purposes of inspecting the Facility consistent with Prudent Industry Practices. Each Buyer acknowledges that such access does not provide Buyers with the right to direct or modify the operation of the Facility in any way. Buyers shall abide by Seller's generally-applied safety procedures and rules while visiting the Site.

(B) No inspections of the Facility, whether by a Buyer or otherwise, shall relieve Seller of its obligation to maintain the Facility and operate the same in accordance with Prudent Industry Practices and Applicable Laws. In no event shall any statement, representation, or lack thereof by a Buyer, either express or implied, relieve Seller of its exclusive responsibility for the Facility. Any inspection of Seller's property or equipment by a Buyer or any review by a Buyer or consent by a Buyer to Seller's plans, shall not be construed as endorsing the design, fitness or operation of the Facility equipment nor as a warranty or guarantee.

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**ARTICLE 11
Security**

11.1 Seller Security. Within ten (10) Business Days after the satisfaction of the Tier 1 Buyers' CP, Seller shall cause the Seller Credit Support to be provided to Buyers. The "Seller Credit Support" shall be maintained throughout the term of this Agreement and take the form of (i) a guaranty from an Affiliate of Seller with an Investment Grade Rating or (ii) a Surety Bond from a major U.S. commercial bank or surety company or the U.S. branch of a foreign bank or surety company with total assets of at least [REDACTED], and such bank or surety company having a long term senior debt obligations of which are rated "BBB+" or better by Standard & Poor's (S&P) or "Baa1" or better by Moody's (or an equivalent rating from an equivalent rating agency as may be approved by Buyers. The Seller Credit Support shall be in an aggregate amount of [REDACTED]. Seller may change the form of Seller Credit Support from time to time so long as such credit support is reasonably acceptable to Buyers and there is no lapse in Seller Credit Support. The form of Seller Credit Support shall be substantially in the form of Exhibit E (Guaranty) or one of the two forms attached as Exhibit C (Surety Bond). If the Seller Credit Support is in the form of a surety bond, Seller will furnish the audited financial statements of the surety company for the end of every fiscal year of such surety company. If the total assets of the surety company falls below [REDACTED] asset requirement or the general long-term senior unsecured debt obligation rating falls below BBB+ as rated by S&P Global Ratings, or Baa1 as rated by Moody's Investors Service, Inc. or a comparable rating by an entity succeeding to the functions and business of such rating agencies, then Buyer shall provide notice to Seller that it is in breach of its obligations under this Section 11.1, and Seller shall have ninety (90) days from notice to comply with this Section 11.1.

11.2 Effect of Security. Nothing in this Article 11, any security agreement or any surety bond is intended, or shall be deemed or construed to, in any way limit or modify any obligation or agreement of or recourse to the Parties hereunder.

**ARTICLE 12
Default and Remedies**

12.1 Events of Default of Seller.

(A) Any of the following shall constitute an Event of Default of Seller upon its occurrence and no cure period shall be applicable:

- (i) Seller's dissolution or liquidation;
- (ii) Seller's filing of a petition in voluntary bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any state, or Seller voluntarily taking advantage of any such law by answer or otherwise;

- (iii) The sale of Solar Energy Output by Seller to a third party, or diversion by Seller for any use of Solar Energy Output committed to Buyers by Seller other than in mitigation of damages for any breach by a Buyer of this PPA or during any period during which a Buyer does not take delivery of Solar Energy Output as described herein; and.
- (iv) Seller's failure to establish and maintain the Seller Credit Support in accordance with Article 11.

(B) Seller's failure to make any payment due hereunder (subject to Seller's rights with respect to disputed payments under Article 9) that is not cured within thirty (30) Days after Seller's receipt of notice of such nonpayment from Buyers shall constitute an Event of Default of Seller.

(C) Any of the following shall constitute an Event of Default of Seller upon its occurrence but shall be subject to cure within sixty (60) Days after the date of written notice from Buyers to Seller and the Financing Parties:

- (i) Seller's Abandonment of the Facility;
- (ii) Seller's assignment of this PPA except as permitted in accordance with Article 19;
- (iii) Any representation or warranty made by Seller in this PPA shall prove to have been false or misleading in any material respect when made and such misrepresentation or breach of warranty would reasonably be expected to result in a material adverse impact on Buyers;
- (iv) The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against Seller as debtor that could materially impact Seller's ability to perform its obligations hereunder; provided, however, that Seller does not obtain a stay or dismissal of the filing within the cure period;
- (v) Seller's failure to comply with any other material obligation of Seller under this PPA, which would result in a material adverse impact on one or both Buyers;
- (vi) Seller's failure to comply with Section 10.3; or
- (vii) An Availability Satisfactory Day does not occur within an Availability Default Period.

(D) The following shall constitute an Event of Default of Seller upon its occurrence but shall be subject to cure within 90 Days after the date of written notice from

Buyers to Seller: the Commercial Operation Date is not achieved by Required Commercial Operation Date (as extended under Section 4.1(B)).

(E) It shall not be an Event of Default of Seller hereunder if Seller does not produce a specified amount of Solar Energy Output or Renewable Energy Benefits.

(F) Seller shall not be liable for or deemed in breach of this Agreement to the extent the performance of its obligations under this PPA is delayed or prevented by a Seller Delivery Excuse.

12.2 Events of Default of Buyers.

(A) Any of the following shall constitute an Event of Default of a Buyer upon its occurrence, and no cure period shall be applicable:

- (i) Such Buyer's dissolution or liquidation provided that division of such Buyer into multiple entities shall not constitute dissolution or liquidation;
- (ii) Such Buyer's assignment of this PPA or any of its rights hereunder for the benefit of creditors; or
- (iii) Such Buyer's filing of a voluntary petition in bankruptcy or insolvency or for reorganization or arrangement under the bankruptcy laws of the United States or under any insolvency law of any State, or such Buyer voluntarily taking advantage of any such law by answer or otherwise.

(B) Such Buyer's failure to make any payment due hereunder (subject to Buyer's rights with respect to disputed payments under Article 9) that is not cured within thirty (30) Days of the date on which such payment is due shall constitute an Event of Default of such Buyer.

(C) Any of the following shall constitute an Event of Default of a Buyer upon its occurrence but shall be subject to cure within sixty (60) Days after the date of written notice from Seller to such Buyer:

- (i) The filing of an involuntary case in bankruptcy or any proceeding under any other insolvency law against such Buyer; provided, however, that such Buyer does not obtain a stay or dismissal of the filing within the cure period;
- (ii) Such Buyer's assignment of this PPA, except as permitted in accordance with Article 19;
- (iii) Any representation or warranty made by such Buyer in this PPA shall prove to have been false or misleading in any

material respect when made and such misrepresentation or breach of warranty is reasonably expected to result in a material adverse impact on Seller; or

- (iv) Such Buyer's failure to comply with any other material obligation of such Buyer under this PPA, which would result in a material adverse impact on Seller.

12.3 Damages Prior to Termination. Upon the occurrence of an Event of Default, and subject in each case to the limitation on damages set forth in Section 12.6, the non-defaulting Party shall have the right to suspend its performance of this Agreement and collect damages accruing prior to the termination of this PPA from the defaulting Party, and the payment of any such damages accruing prior to the cure of an Event of Default shall constitute an element of any respective cure. If a Buyer has committed an Event of Default, then Seller may suspend its performance hereunder and, if allowed by Applicable Law, sell the Solar Energy Output and Renewable Energy Benefits to a third party in an effort to mitigate the damages payable by Buyer, or may continue to deliver Solar Energy Output and Renewable Energy Benefits to such Buyer.

12.4 Termination.

(A) Upon the occurrence of an Event of Default that is not cured within the applicable cure period, if any, the non-defaulting Party shall have the right to declare a date, which shall be between fifteen (15) and thirty (30) Days after the notice thereof, upon which this PPA shall terminate (the "Early Termination Date"); provided, however, that if a Buyer Event of Default has occurred, then Seller may terminate this Agreement with regard to only such Buyer. Neither Party shall have the right to terminate this PPA except as provided for upon the occurrence of an Event of Default as described above or as may be otherwise explicitly provided for in this PPA.

(B) Upon the termination of this PPA under this Section 12.4, the non-defaulting Party shall be entitled to receive from the defaulting Party, subject to the limitation on damages set forth in Section 12.6, all of the damages incurred by the non-defaulting Party in connection with such termination, that shall be determined on a "cost-to-cover" basis. Such payment shall be the exclusive remedy of the non-defaulting Party in connection with the termination of this PPA, but shall not otherwise act to limit any of the non-defaulting Party's rights or remedies if the non-defaulting Party does not elect to terminate this PPA as its remedy for an Event of Default by the defaulting Party.

(C) In determining the losses that Seller will incur upon a termination of this Agreement by Seller under this Section 12.4, Buyers understand and agree that Seller may not be able to sell the Solar Energy Output on a commercially reasonable basis, and therefore Seller would not be able to mitigate its losses by selling the Solar Energy Output to a third-party, and therefore its losses would equal the net present value (determined using a discount rate of five percent (5%)) at the time of termination of all Solar Energy Output that would have been produced from the date of termination of the

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PPA through the end of the Term (had the PPA not been terminated), minus avoided operating costs. If the PPA is terminated by Seller under this Section 12.4 during the first seven (7) years after the Commercial Operation Date, Seller's losses will include any anticipated recapture of Tax Credits and lost depreciation. After Buyers make a termination payment to Seller, if Seller is able to enter into new arrangements to sell the Solar Energy Output and Renewable Energy Benefits of the Facility, then Seller shall recalculate the termination payment based on such new arrangements and shall reimburse Buyers in the amount of the reduced termination payment.

(D) Subject to Section 12.4(E), in determining the losses that Buyer will incur upon a termination of this Agreement by Buyer under this Section 12.4, notwithstanding anything herein to the contrary (other than the provisions of Section 12.4(E)), Buyers' cost-to-cover losses shall be calculated using the projected Avoided Cost Rate as the replacement cost of electricity, and using the LD REC Input as the replacement cost of Renewable Energy Benefits. Such determination of Buyer's losses shall be based on the net present value (determined using a discount rate of five percent (5%)) of losses for the remainder of the Term at the time of termination.

(E) Seller's liability under Section 12.4(D) shall be limited to [REDACTED] (including amounts collected from the Seller Credit Support); provided, if Seller is able to enter into new arrangements to sell the Solar Energy and RECs attributable to Solar Energy within two (2) years of the date of termination and the pricing for such Solar Energy or RECs is greater than pricing under this PPA, then Buyers' cost-to-cover losses shall be recalculated to reflect the differences between the prices included in such new arrangements entered into by Seller and the lower prices under this PPA, and Seller shall pay Buyers the amount of the resulting increased termination payment without regard to the limitation of liability stated in this Section 12.4(E). The obligation to make such increased termination shall survive the termination of this PPA.

12.5 Remedies Cumulative. Subject to limitations on damages set forth in Section 12.6, each right or remedy of the Parties provided for in this PPA shall be cumulative of and shall be in addition to every other right or remedy provided for in this PPA, and the exercise, or the beginning of the exercise, by a Party of any one or more of the rights or remedies provided for herein shall not preclude the simultaneous or later exercise by such Party of any or all other rights or remedies provided for herein.

12.6 Waiver and Exclusion of Other Damages. The Parties confirm that the express remedies and measures of damages provided in this PPA satisfy the essential purposes hereof. If no remedy or measure of damages is expressly herein provided, the obligor's liability shall be limited to direct, actual damages only, which shall include cover damages and the related costs to procure alternative arrangements. Neither Party shall be liable to the other Party for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages by statute, in tort or contract (except to the extent expressly provided herein); provided, that if either Party is held liable to a third party for such damages, and the Party held liable for such damages is entitled under Article 17 to indemnification therefor from the other Party hereto, the indemnifying Party shall be liable for, and obligated to reimburse the indemnified Party for, such

damages, all in accordance with the indemnification provisions of Article 17 hereof. To the extent any damages are required to be paid hereunder are described as or deemed liquidated, the Parties acknowledge that such damages do not constitute a penalty, that such damages are difficult or impossible to determine, that otherwise obtaining an adequate remedy is inconvenient, and that such damages constitute a reasonable approximation of the harm or loss.

12.7 Duty to Mitigate. Each Party agrees that it has a duty to mitigate damages and covenants that it will use commercially reasonable efforts to minimize any damages it may incur as a result of the other Party's performance or non-performance of this PPA.

12.8 Non-Recourse. Each Buyer acknowledges and agrees that no owner, member, investor, lender, lessor, officer, director, employee, or agent of Seller shall have any obligation to Buyers arising under this PPA, and that Buyers shall seek recourse solely against Seller, its assets, and the Seller Credit Support in the event of any breach of this PPA by Seller. Seller acknowledges and agrees that no owner, member, investor, lender, lessor, officer, director, employee, or agent of a Buyer shall have any obligation to Seller arising under this PPA, and that Seller shall seek recourse solely against Buyers and their assets in the event of any breach of this PPA by a Buyer.

ARTICLE 13

Contract Administration and Notices

13.1 Notices in Writing. Notices required by this PPA shall be addressed to the other Party at the addresses noted in Exhibit A as either Party updates them from time to time by written notice to the other Party. Any notice, request, consent, or other communication required or authorized under this PPA to be given by one Party to the other Party shall be in writing. It shall be made by personal delivery, recognized express courier, or electronic mail (immediately followed by recognized express courier). Any such notice, request, consent, or other communication shall be deemed to have been received by the close of the Business Day on which it was hand delivered or transmitted electronically (unless hand delivered or transmitted after such close, in which case it shall be deemed received at the close of the next Business Day). Real-time or routine communications concerning Facility operations shall be exempt from this Section.

13.2 Records. Seller and Buyers shall each keep and maintain complete and accurate records and all other data required by each of them for the purposes of proper administration of this PPA, including such records as may be required by any Governmental Authority or pursuant to Applicable Law. All records of Seller and Buyers pertaining to the operation of the Facility and/or this PPA as specified herein or otherwise shall be maintained at the Facility or in an office of Seller or Buyers, as applicable, in such format as may be required by Applicable Law and/or any Governmental Approval. Each Party shall have the right, upon reasonable prior written notice to the other Party and at its own expense, during normal business hours, to examine and/or make copies of the records and data of such other Party relating to confirmation of such Party's performance of its obligations under this PPA (including all records and data relating to or substantiating any charges paid by or to such other Party under this PPA, MWh

generated by the Facility, Seller's operating procedures, the Facility equipment manuals, and Facility O&M Records).

(A) Operating and Maintenance Records. Seller shall maintain an accurate and up-to-date operating log, in electronic format, with records of solar irradiation and energy production for each clock hour, changes in operating status, meteorological data, maintenance, any other operating or maintenance records as may be required by state or federal regulatory authorities and pursuant to any Non-Governmental Compliance Obligations, Forced Outages, agreements associated with the Facility, operating logs, blueprints for construction, operating manuals, all warranties on equipment, and all documents, including supply contracts, whether in printed or electronic format, that Seller uses or maintains for the operation of the Facility (collectively, the "O&M Records").

(B) Billing and Payment Records. To facilitate payment and verification, Seller and Buyers shall keep all books and records necessary for billing and payments in accordance with the provisions of Article 9 and grant the other Party reasonable access to those records. All records of Seller pertaining to the operation of the Facility shall be maintained at the Site or in an office of Seller.

13.3 Provision of Real Time Data. Upon request from Buyers, Seller shall provide real-time electronic access to Buyers of all solar irradiance and meteorological data collected at the Facility and corresponding unit availability data as well.

ARTICLE 14

Force Majeure and Seller Delivery Excuse

14.1 Definition of Force Majeure Event.

(A) "Force Majeure" shall mean a cause or event that actually and proximately prevents either Party, in whole or in part, from performing any of its obligations under this PPA including, acts of God; unusually severe actions of the elements such as floods, inundation, landslides, earthquake, lightning, hurricanes, or tornadoes; unusually severe weather; terrorism; war (whether or not declared); sabotage; acts or threats of terrorism; riots or public disorders; delays in obtaining necessary permits and regulatory approvals (except as provided below in this Section 14.1(A)); strikes or labor disputes not expressly excluded below; actions or failures to act of an unaffiliated third party supplier of goods or services (to the extent caused by an event which would meet the definition of Force Majeure); equipment failure; environmental issues not identified in reports and studies prepared by Seller and which delay construction of the Facility; actions or failures to act of any Governmental Authority (including, except as provided below in this Section 14.1(A), the failure to issue permits); blockade; embargo; military or governmentally usurped power, expropriation, or requisition to the extent preventing or delaying the performance of the Party claiming Force Majeure; or any other event beyond the reasonable control of the Party claiming Force Majeure, whether or not foreseeable, but only to the extent the Party claiming Force Majeure is unable to prevent, avoid or overcome any of the events described above in this Section 14.1 through the

exercise of commercially reasonable efforts, and such event is not the result of the fault or negligence of the Party claiming Force Majeure. Notwithstanding the foregoing, failure of a Governmental Authority to issue any permit serving as the basis for a Buyers' CP or Seller's CP shall not constitute Force Majeure.

(B) "Force Majeure" shall not include: (i) any failure of, or delay in performance, or any full or partial curtailment in the electric output of the Facility that is caused by a labor dispute or strike by Seller's employees or any employees of Seller's contractors employed at the Facility (except to the extent arising out of a strike or labor action not directed specifically at the Seller or the Facility, including without limitation, a national or regional strike), (ii) market changes in, or that otherwise effect, the price of energy, capacity or Renewable Energy Benefits, or (iii) any Change in Applicable Law that effects the value or existence of Renewable Energy Benefits.

14.2 Effect of Force Majeure.

(A) In no event will any delay or failure of performance caused by Force Majeure extend this PPA beyond its stated Term. Notwithstanding any other provision in this PPA to the contrary, in the event that any delay or failure of performance caused by Force Majeure affecting Seller continues for an uninterrupted period of twelve (12) months from its inception, either Seller or Buyers may, at any time following the end of such period if the Force Majeure event is still in effect, terminate this PPA upon written notice to the other Parties, without further obligation by either Party except as to costs and balances incurred prior to the effective date of such termination.

(B) Except as otherwise provided in this PPA, each Party shall be excused from performance when non-performance was caused, directly or indirectly, by a Force Majeure event but only and to the extent thereof, and only if: (i) the non-performing Party gives the other Party notice describing the occurrence of the Force Majeure event as described in Section 14.3; (ii) the non-performance is of no greater scope and of no longer term than is required by the Force Majeure event; and (iii) the non-performing Party uses commercially reasonable efforts to remedy its inability to perform.

(C) The existence of a condition of Force Majeure event shall not relieve the Parties of obligations under this PPA (including payment obligations) to the extent that such performance of such obligations is not precluded by the condition or Force Majeure event.

14.3 Notification Obligations. In the event of any delay or nonperformance resulting from a Force Majeure event, the Party claiming that a Force Majeure event has occurred shall notify the other Party immediately by telephone and/or email, and in writing, within five (5) Days of such occurrence, of the nature, cause, date of commencement thereof, and the anticipated duration, and shall indicate whether any deadlines or date(s) imposed hereunder may be affected thereby. The suspension of performance shall be of no greater scope and of no greater duration than the cure for the Force Majeure event requires. A Party claiming that a Force Majeure event has occurred shall not be entitled

to any relief therefor unless and until conforming notice is provided. The Party claiming that a Force Majeure event has occurred shall notify the other Party of the cessation of the Force Majeure event or of the conclusion of the affected Party's cure for the Force Majeure event, in either case within two (2) Business Days thereof.

14.4 Duty to Mitigate. The Party claiming that a Force Majeure event has occurred shall use its best efforts to cure the cause(s) preventing its performance of this PPA and shall provide to the other Party weekly progress reports describing actions taken to end the Force Majeure event and perform its obligations pursuant to Section 14.5 below; provided, however, that the settlement of strikes, lockouts and other labor disputes shall be entirely within the discretion of the affected Party, and such Party shall not be required to settle such strikes, lockouts or other labor disputes by acceding to demands which such Party deems to be unreasonable.

14.5 Force Majeure Restoration.

(A) In the event that, as a result of one or more Force Majeure event(s) or its or their effects or by any combination thereof, the construction or operation of the Facility or any part thereof is affected and is not restored or remedied within thirty (30) Days following the date the Force Majeure event(s) began, then Seller shall prepare and deliver to Buyers a Restoration Report pursuant to Section 14.7.

(B) Subject to clause (C) below, Seller shall proceed with the remedying of the construction or operation of the Facility ("Restoration") in accordance with a schedule contained in the relevant Restoration Report, as defined in Section 14.7 hereof (the "Restoration Schedule"). The cost of such Restoration shall be the sole responsibility of Seller and no compensation shall be payable by Buyers to Seller with respect to any damage to the Facility as a result of the Force Majeure event.

(C) If Seller's Financing Documents do not require the use of insurance proceeds for the prepayment of Seller's obligations thereunder, then Seller shall be obligated to use all insurance proceeds to restore the Facility, and the Demonstrated Capacity of the Facility after such restoration shall be adjusted to the actual installed capacity of the Facility, notwithstanding that such capacity is lower than the Minimum Demonstrated Capacity. If Seller's Financing Documents require the use of insurance proceeds for the prepayment of Seller's obligations thereunder then Seller shall have the right to terminate this PPA without further liability to Buyers.

14.6 Restoration Consents. Notwithstanding anything herein to the contrary, Seller shall not be required to proceed with any Restoration unless and until it shall have received all necessary third-party consents and any Governmental Approvals required therewith. If Seller does not receive any such third-party consents or any Governmental Approvals required therewith for any reason (other than an act, omission or default of Seller) within six (6) Months after the date that it becomes obligated to proceed with such Restoration, then either Seller or Buyers shall have the right to terminate this PPA.

14.7 Preparation of Restoration Report. When required by Section 14.5, Seller shall commence the preparation of an appraisal report (the "Restoration Report") within thirty (30) Days after the date it was required to provide a notice under Section 14.3 and shall deliver a copy of such Restoration Report to Buyers within sixty (60) Days after provision of such notice was required. Buyers shall provide Seller such information as it reasonably requires to prepare such Restoration Report. The Restoration Report shall be accompanied by reasonable supporting data and certificates and reports of financial and technical advisers of Seller, as appropriate or as reasonably requested by Buyers, in support of the Force Majeure event in question, and shall include (A) a description of such Force Majeure event and its impact on the Facility, (B) an estimate in good faith of the time required to restore the Facility (insofar as practicable) to its condition immediately prior to the occurrence of the Force Majeure event, and (C) a proposed Restoration Schedule.

14.8 Discussion of Restoration Report. Within fifteen (15) Days of the delivery of a Restoration Report to Buyers or such further time as the Parties may agree, the Parties shall meet to discuss the Restoration Report and any action to be taken.

ARTICLE 15

Representations, Warranties and Covenants

15.1 Seller's Representations, Warranties, and Covenants. Seller hereby represents and warrants to Buyers as follows as of the Effective Date and as of the Commercial Operation Date:

(A) Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the state of Delaware. Seller is qualified to do business in the Commonwealth of Kentucky and each other jurisdiction where the failure to so qualify would have a material adverse effect on the business or financial condition of Seller; and Seller has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

(B) The execution, delivery, and performance of its obligations under this PPA by Seller have been duly authorized by all necessary corporate action, and do not and will not:

- (i) require any consent or approval by any governing body of Seller, other than that which has been obtained and is in full force and effect (evidence of which shall be delivered to Buyers upon execution of this PPA);
- (ii) violate any Applicable Law, or violate any provision in any formation documents of Seller, the violation of which could have a material adverse effect on the ability of Seller to perform its obligations under this PPA;

- (iii) result in a breach or constitute a default under Seller's formation documents or bylaws, or under any agreement relating to the management or affairs of Seller or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which Seller is a party or by which Seller or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA; or
- (iv) result in, or require the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of Seller now owned or hereafter acquired, the creation or imposition of which could reasonably be expected to have a material adverse effect on the ability of Seller to perform its obligations under this PPA.

(C) The obligations of Seller under this PPA are valid and binding obligations of Seller, enforceable against the Seller by Buyers, subject to customary exceptions for public policy and bankruptcy.

(D) The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which Seller is a party or any judgment, order, statute, or regulation that is applicable to Seller or the Facility.

(E) To the best knowledge of Seller, and except for those permits, consents, approvals, licenses and authorizations identified in writing by Seller to Buyers, all Governmental Approvals necessary for Seller's execution, delivery and performance of this PPA have been duly obtained and are in full force and effect.

(F) Seller shall comply with all Applicable Laws in effect or that may be enacted during the Term.

(G) As of the Commercial Operation Date, Seller shall have been certified as an "exempt wholesale generator" as such term is defined in the regulations of the Federal Energy Regulatory Commission.

(H) Seller has not taken action causing either Buyer to be deemed to be the registered "Generator Owner" or "Generator Operator" with respect to the Facility as such terms are used in the NERC Reliability Standards.

(I) Seller has not sold or committed to sell to any Person any Solar Energy Output, Renewable Energy Benefits or Capacity Rights to any Person.

(J) Seller either (i) owns the real property comprising the Site or (ii) has obtained the necessary real property rights to construct and operate the Facility on the Site throughout the Term.

(K) Seller will have as of the Commercial Operation Date, and shall thereafter maintain sufficient funds available to it to perform all obligations under this Agreement and to consummate the obligations contemplated pursuant hereto.

15.2 Buyers' Representations, Warranties, and Covenants. Each Buyer hereby represents and warrants to Seller as follows as of the Effective Date and as of the Commercial Operation Date:

(A) Such Buyer is a corporation, duly organized, validly existing and in good standing under the laws of the Commonwealth of Kentucky and is qualified in each other jurisdiction where the failure to so qualify would have a material adverse effect upon the business or financial condition of such Buyer. (KU is also incorporated in Virginia.) Such Buyer has all requisite power and authority to conduct its business, to own its properties, and to execute, deliver, and perform its obligations under this PPA.

(B) The execution, delivery, and performance of its obligations under this PPA by such Buyer have been duly authorized by all necessary corporate action, and do not and will not:

- (i) require any further consent or approval, including from such Buyer's Board of Directors;
- (ii) violate any Applicable Law, or violate any provision in any corporate documents of such Buyer, the violation of which could have a material adverse effect on the ability of such Buyer to perform its obligations under this PPA;
- (iii) result in a breach or constitute a default under such Buyer's corporate charter or bylaws, or under any agreement relating to the management or affairs of such Buyer, or any indenture or loan or credit agreement, or any other agreement, lease, or instrument to which such Buyer is a party or by which such Buyer or its properties or assets may be bound or affected, the breach or default of which could reasonably be expected to have a material adverse effect on the ability of such Buyer to perform its obligations under this PPA; or
- (iv) result in, or require the creation or imposition of, any mortgage, deed of trust, pledge, lien, security interest, or other charge or encumbrance of any nature (other than as may be contemplated by this PPA) upon or with respect to any of the assets or properties of such Buyer now owned or hereafter acquired, the creation or imposition of which could reasonably

be expected to have a material adverse effect on the ability of such Buyer to perform its obligations under this PPA.

(C) The obligations of such Buyer under this PPA are valid and binding obligations of such Buyer, enforceable against it by the Seller, subject to customary exceptions for public policy and bankruptcy.

(D) The execution and performance of this PPA will not conflict with or constitute a breach or default under any contract or agreement of any kind to which such Buyer is a party or any judgment, order, statute, or regulation that is applicable to such Buyer.

(E) To the best knowledge of such Buyer, all required Governmental Approvals necessary for such Buyer's execution, delivery and performance of this PPA, other than Governmental Approvals identified as Buyer Conditions Precedent, have been duly obtained and are in full force and effect.

ARTICLE 16

Insurance

16.1 Evidence of Insurance.

(A) Seller shall, at least thirty (30) Days prior to the commencement of any work on the Facility, and thereafter, on or before June 1 of each year of the Term, provide Buyers with one (1) copy of insurance certificates reasonably acceptable to Buyers evidencing the insurance coverages required to be maintained by Seller in accordance with Exhibit B and this Article 16. Such certificates shall provide a waiver of any rights of subrogation against Buyers and their Affiliates and their respective officers, directors, agents, subcontractors, and employees; and shall contain such other endorsements and terms as required hereunder. All policies shall be written with insurers that Buyers, in their reasonable discretion, deem acceptable (such acceptance shall not be unreasonably withheld or delayed by Buyers). Seller's liability under this PPA shall not be limited to the amount of insurance coverage required herein.

16.2 Term and Modification of Insurance.

(A) All liability insurance required under this PPA shall cover occurrences during the term of this PPA. In the event that any insurance as required herein is commercially available only on a "claims-made" basis, such insurance shall provide for a retroactive date not later than the Effective Date.

16.3 Endorsements and Other Requirements.

(A) Insurers shall waive all rights of subrogation against Buyers and their Affiliates and their respective officers, directors, agents, subcontractors, and employees.

(B) The insurance required under this PPA shall be primary insurance. Any other insurance carried by Buyers shall be excess and not contributory with respect to the insurance required hereunder.

(C) The liability insurance required pursuant to Exhibit B shall be endorsed to include Buyers, their Affiliates, and their respective officers, directors, and employees as additional insureds only to the extent Buyers (or other additional insured) are vicariously liable for the negligence, acts or omissions of Seller. The liability insurance required pursuant to paragraphs (B) and (D) of Exhibit B shall state, that with respect to coverage of more than one insured, all terms, conditions, insuring agreements, and endorsements, with the exception of limits of liability, shall operate in the same manner as if there were a separate policy covering each insured.

ARTICLE 17

Indemnity

17.1 Indemnification.

(A) Each Buyer and Seller shall each be responsible for its own facilities. Buyers and Seller shall each be responsible for ensuring adequate safeguards for Buyers, Buyers' customers, and personnel and equipment belonging to Buyers, and for the protection of their own generating systems.

(B) Seller agrees, to the extent permitted by Applicable Law, to indemnify, pay, defend, and hold harmless the Buyers, their Affiliates, their respective officers, directors, employees, agents, and contractors (hereinafter called respectively, "Buyer Entities") from and against any and all claims, demands, costs, or expenses for loss, damages, or injury to persons or property of the Buyer Entities (or to third parties) directly caused by, arising out of, or resulting from:

- (i) a breach by Seller of its covenants, representations, and warranties or obligations hereunder;
- (ii) any act or omission by Seller or its contractors, agents, servants or employees in connection with the installation or operation of its generation system or the operation thereof in connection with the other Party's system;
- (iii) any defect in, failure of, or fault related to, the Seller's generation system; or
- (iv) the negligence or willful misconduct of the Seller or its contractors, agents, servants or employees.

(C) Each Buyer, on a several but not joint basis, agrees, to the extent permitted by Applicable Law, to indemnify, pay, defend, and hold harmless Seller, its Affiliates, their respective officers, directors, employees, agents, and contractors

(hereinafter called respectively, "Seller Entities") from and against any and all claims, demands, costs, or expenses for loss, damages, or injury to persons or property of a Seller Entity (or to third parties) directly caused by, arising out of, or resulting from:

- (i) a breach by such Buyer of its covenants, representations, and warranties or obligations hereunder; or
- (ii) the negligence or willful misconduct of such Buyer or its contractors, agents, servants or employees.

17.2 Indemnification for Fines and Penalties. Any fines or other penalties incurred by a Party (other than fines or penalties due to the negligence or intentional acts or omissions of the other Party) for non-compliance with any municipal, state or federal laws shall be the sole responsibility of the non-complying Party.

17.3 Notice of Proceedings. Each Party shall promptly notify the other Party of any loss or proceeding in respect of which such notifying Party is or may be entitled to indemnification pursuant to Section 17.1. Such notice shall be given as soon as reasonably practicable after the relevant Party becomes aware of the loss or proceeding and that such loss or proceeding may give rise to an indemnification. The delay or failure of such Indemnified Party to provide the notice required pursuant to this Section 17.3 to the other Party shall not release the other Party from any indemnification obligation it may have to such Indemnified Party except (i) to the extent that such failure or delay materially and adversely affected the Indemnifying Party's ability to defend such action or increased the amount of the loss, and (ii) that the Indemnifying Party shall not be liable for any costs or expenses of the Indemnified Party in the defense of the claim, suit, action or proceeding during such period of failure or delay.

17.4 Defense of Claims.

(A) The Indemnifying Party shall be entitled, at its option, to assume and control the defense of such claim, action, suit or proceeding at its expense with counsel of its selection, subject to the prior approval of the Indemnified Party, which shall not be unreasonably withheld.

(B) Unless and until the Indemnifying Party assumes control of the defense of a claim, suit, action or proceeding in accordance with clause (A) above, the Indemnified Party shall have the right, but not the obligation, to contest, defend and litigate, with counsel of its own selection, any claim, action, suit or proceeding by any third party alleged or asserted against such Party in respect of, resulting from, related to or arising out of any matter for which it is entitled to be indemnified hereunder, and the reasonable costs and expenses thereof shall be subject to the indemnification obligations of the Indemnifying Party hereunder.

(C) Neither the Indemnifying Party nor the Indemnified Party shall be entitled to settle or compromise any such claim, action, suit or proceeding without the prior consent of the other; provided, however, that after agreeing in writing to indemnify

the Indemnified Party, the Indemnifying Party may, subject to clause (D) below, settle or compromise any claim without the approval of such Indemnified Party. If a Party settles or compromises any claim, action, suit or proceeding in respect of which it would otherwise be entitled to be indemnified without the prior consent of the Indemnifying Party, the Indemnifying Party shall be excused from any indemnification obligation in respect of such settlement or compromise.

(D) Following the acknowledgement of the indemnification and the assumption of the defense by the Indemnifying Party pursuant to clause (A) above, the Indemnified Party shall have the right to employ its own counsel, and such counsel may participate in such action, but the fees and expenses of such counsel shall be at the expense of the Indemnified Party, when and as incurred, unless: (i) the Indemnified Party shall have reasonably concluded and specifically notified the Indemnifying Party that there may be a conflict of interest between the Indemnifying Party and the Indemnified Party in the conduct of the defense of such action; or (ii) the Indemnifying Party shall not in fact have employed independent counsel reasonably satisfactory to the Indemnified Party to assume the defense of such action and shall have been so notified by the Indemnified Party.

17.5 Subrogation.

Upon payment of any indemnification pursuant to Section 17.1 above, the Indemnifying Party, without any further action, but subject to such limits as may be imposed below, shall be subrogated to any and all Claims that the Indemnified Party may have relating thereto, and the Indemnified Party shall, at the request and expense of the Indemnifying Party, cooperate with the Indemnifying Party and give at the request and expense of the Indemnifying Party such further assurances as are necessary or advisable to enable the Indemnifying Party vigorously to pursue such Claims.

ARTICLE 18

Legal and Regulatory Compliance

18.1 Applicable Laws. Seller shall promptly notify Buyer of any investigations, notices, or findings of violation of Applicable Law from any Governmental Authority, including any audit, notification, inspection, or inquiry that has been commenced by any Governmental Authority in respect of a potential or possible violation of Applicable Law.

18.2 Governmental Approvals. Each Party shall timely and lawfully procure and maintain in good standing, at its own cost and expense, all Governmental Approvals and shall timely and properly pay its respective charges and fees in connection therewith.

18.3 Compliance with Reliability Standards. To the extent that Seller contributes in whole or in part to actions that result in monetary penalties being assessed to Buyer by NERC, FERC, the RE or any successor agency, for lack of compliance with reliability standards, Seller shall reimburse Buyer for its share of monetary penalties.

18.4 Change in Applicable Law. No Change in Applicable Law that eliminates, reduces or otherwise modifies any obligations of a Buyer to obtain Renewable Energy Benefits to comply with Applicable Law shall, in any such case, modify the obligations of the Parties hereunder.

ARTICLE 19

Assignment and Other Transfer Restrictions

19.1 No Assignment Without Consent. Except as permitted in this Article 19, neither Party shall assign this PPA or any portion thereof, without the prior written consent of the other Party; provided, (i) at least thirty (30) Days prior notice of any such assignment shall be given to the other Party; (ii) any assignee shall expressly assume the assignor's obligations hereunder; (iii) no assignment shall relieve the assignor of its obligations hereunder in the event the assignee fails to perform; (iv) no assignment shall impair any security given by Buyer hereunder; and (v) before this PPA is assigned, the assignee must first obtain such approvals as may be required by all applicable regulatory bodies.

19.2 Transfers. Notwithstanding Section 19.1 and Article 7.1(C), but subject to the limitations in Section 19.3, Seller may: assign, pledge, hypothecate, or otherwise transfer, as and for, among other purposes, collateral security, in connection with any financing or the refinancing of the Facility, including a sale of this PPA, together with a sale of the Facility, combined with the lease back to Seller of the PPA and Facility, as part of a sale-leaseback financing transaction. In connection with any such permitted transfer by Seller, Buyer agrees to execute a written consent to such collateral assignment as may be reasonably requested, which collateral assignment may include, among other terms, Buyer's agreement not to terminate this PPA on account of any Event of Default without written notice to the Financing Parties and first providing the Financing Parties with such opportunity to cure such Event of Default. If such written consent is not requested, Seller shall notify Buyer of any such assignment to the Financing Parties no later than thirty (30) Days after the assignment. Seller may subcontract its duties or obligations under this PPA without the prior written consent of Buyer, provided, that no such subcontract shall relieve Seller of any of its duties or obligations hereunder.

19.3 Buyers' Consent. A Buyer may withhold its consent to a proposed assignment by Seller pursuant to Section 19.1 if the proposed transferee is: (A) an entity that at the time of such proposed transfer is, or within the five years prior to the Commercial Operation Date has been, adverse to a Buyer in a litigation or administrative proceeding; or (B) not experienced (and has not contracted for the operation of the Facility with a third-party that is experienced) in operating and maintaining a solar power generation facility of at least 10 MWac.

ARTICLE 20

Miscellaneous

20.1 Waiver. The failure of either Party to enforce or insist upon compliance with or strict performance of any of the terms or conditions of this PPA, or to take advantage

of any of its rights thereunder, shall not constitute a waiver or relinquishment of any such terms, conditions, or rights, but the same shall be and remain at all times in full force and effect.

20.2 Rate Changes.

(A) The terms and conditions and the rates for service specified in this PPA shall remain in effect for the term of the transaction described herein. Absent the Parties' written agreement, this PPA shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act.

(B) Absent the agreement of all Parties to the proposed change, the standard of review for changes to this PPA whether proposed by a Party (acting unilaterally in violation of this Section 20.2), a non-party, or the FERC acting *sua sponte* shall be the "public interest" standard of review set forth in United Gas Pipe Line v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) (the "Mobile-Sierra doctrine").

20.3 Disclaimer of Third Party Beneficiary Rights. In executing this PPA, Buyer does not, nor should it be construed to, extend its credit or financial support for the benefit of any third parties lending money to or having other transactions with Seller. Nothing in this PPA shall be construed to create any duty to, or standard of care with reference to, or any liability to, any Person not a party to this PPA.

20.4 Relationship of the Parties.

(A) This PPA shall not be interpreted to create an association, joint venture, or partnership between the Parties nor to impose any partnership obligation or liability upon either Party. Neither Party shall have any right, power, or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as an agent or representative of, the other Party.

(B) Each Party shall be solely liable for the payment of all wages, taxes, and other costs related to the employment of persons to perform services for such Party, including all federal, state, and local income, social security, payroll, and employment taxes and statutorily mandated workers' compensation coverage. None of the persons employed by a Party shall be considered employees of the other Party for any purpose; nor shall a Party represent to any person that he or she is or shall become an employee of the other Party.

20.5 Survival of Obligations. Cancellation, expiration, or earlier termination of this PPA shall not relieve the Parties of obligations that by their nature should survive such cancellation, expiration, or termination, prior to the term of the applicable statute of limitations, including warranties, remedies, or indemnities which obligation shall survive for the period of the applicable statute(s) of limitation.

20.6 Severability. In the event any of the terms, covenants, or conditions of this PPA, its Exhibits or Schedules, or the application of any such terms, covenants, or

conditions, shall be held invalid, illegal, or unenforceable by any court or administrative body having jurisdiction, all other terms, covenants, and conditions of the PPA and their application not adversely affected thereby shall remain in force and effect; provided, however, that Buyer and Seller shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this PPA with a view toward effecting the purposes of this PPA by replacing the provision that is held invalid, illegal, or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, illegal or unenforceable.

20.7 Complete Agreement; Amendments. The terms and provisions contained in this PPA constitute the entire agreement between Buyers and Seller with respect to the subject matter hereof, and shall supersede all previous communications, representations, or agreements, either oral or written, between Buyer and Seller with respect to the sale of Solar Energy Output and Renewable Energy Benefits from the Facility. This PPA and the Exhibits and Schedules attached hereto may be amended, changed, modified, or altered, provided that such amendment, change, modification, or alteration shall be in writing and signed by both Parties hereto

20.8 Binding Effect. This PPA, as it may be amended from time to time pursuant to this Article, shall be binding upon and inure to the benefit of the Parties hereto and their respective successors-in-interest, legal representatives, and assigns permitted hereunder.

20.9 Headings. Captions and headings used in this PPA are for ease of reference only and do not constitute a part of this PPA.

20.10 Counterparts. This PPA or any supplement, modification, amendment, or restatement hereof may be executed in two or more counterpart copies of the entire document or of signature pages to the document, each of which may have been executed by one or more of the signatories hereto and thereto and deliveries by mail, courier, telecopy or other electronic means, but all of which taken together shall constitute a single agreement, and each executed counterpart shall have the same force and effect as an original instrument.

20.11 Governing Law. The interpretation and performance of this PPA and each of its provisions shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky notwithstanding its conflict of laws rules or any principles that would trigger the application of any other law.

20.12 Confidentiality.

(A) For purposes of this Section 20.12, “Disclosing Party” refers to the Party disclosing information to the other Party, and the term “Receiving Party” refers to the Party receiving information from the other Party.

(B) The Parties agree to and acknowledge that certain terms, conditions and provisions of this PPA will need to be disclosed in connection with Buyers’ satisfaction of the conditions set forth in Section 6.2, including seeking PSC approvals and with

respect to seeking transmission service from the Interconnection Provider, and Buyers shall be permitted to make any necessary disclosures of Confidential Information in connection therewith (including any ongoing requirements), provided that Buyers shall use reasonable efforts to keep such disclosures confidential to the extent permitted. The Parties agree to and acknowledge that certain terms, conditions and provisions of this PPA will need to be disclosed in connection with Seller's satisfaction of the conditions set forth in Section 6.1, including seeking approval from the Kentucky Public Service Commission Electric Generation and Transmission Siting Board and with respect to seeking transmission service, and Seller shall be permitted to make any necessary disclosures of Confidential Information in connection therewith (including any ongoing requirements), provided that Seller shall use reasonable efforts to keep such disclosures confidential to the extent permitted.

(C) In any proceeding before any applicable Governmental Authority relating to this PPA, Seller and Buyers shall each be entitled to disclose Confidential Information as permitted under Applicable Law. In such event, Seller and/or Buyers shall take all reasonable steps to limit the scope of any disclosure of Confidential Information and shall use its best efforts to make such disclosure of Confidential Information in an executive session or any protective order or other similar procedure.

(D) Other than in connection with this PPA, the Receiving Party will not use the Confidential Information (as defined in clause (F) below) and will keep the Confidential Information confidential. The Confidential Information may be disclosed to the Receiving Party or its affiliates and any of their directors, officers, employees, financial advisors, legal counsel, accountants, authorized agents of the Receiving Party identified in writing to the Disclosing Party, and current and potential investors (collectively, 'Receiving Party's Representatives'), but only if such Receiving Party's Representatives need to know the Confidential Information in connection with this PPA. The Parties agree that (i) such Receiving Party's Representatives will be informed by the Receiving Party of the confidential nature of the Confidential Information and the requirement and the limitations of its use, (ii) such Receiving Party's Representatives will be required to agree to and be bound by the terms of this Section 20.12 as a condition of receiving the Confidential Information, and (iii) in any event, the Receiving Party will be responsible for any disclosure of Confidential Information, or any other breach of confidentiality provisions of this PPA, by any of its Receiving Party's Representatives. The Receiving Party shall not disclose the Confidential Information to any person other than as permitted hereby, and shall safeguard the Confidential Information from unauthorized disclosure using the same degree of care as it takes to preserve its own confidential information (but in any event no less than a reasonable degree of care). To the extent the Disclosing Party is required to submit Confidential Information to a Governmental Authority, the Disclosing Party shall use all available means to ensure that such Confidential Information is not made public.

(E) If the Receiving Party or its Receiving Party's Representatives are requested or required (by a FOIA request, oral question, interrogatories, requests for information or documents, subpoena, civil investigative demand or similar process, or by applicable law) to disclose any Confidential Information, the Receiving Party shall

promptly notify the Disclosing Party of such request or requirement, if that notification can be made without violating the terms of such compelled disclosure, so that the Disclosing Party may seek an appropriate protective order or waive compliance with this Section 20.12 with respect to such disclosure. If, in the absence of a protective order or the receipt of a waiver hereunder, the Receiving Party or its Receiving Party's Representatives are, in the opinion of their legal counsel, compelled to disclose the Confidential Information, the Receiving Party and its Receiving Party's Representatives may disclose only such of the Confidential Information to the party compelling disclosure as is required by law and, in connection with such compelled disclosure, the Receiving Party and its Receiving Party's Representatives shall use their reasonable efforts to obtain from the party to whom disclosure is made written assurance that confidential treatment will be accorded to such portion of the Confidential Information as is disclosed.

(F) As used in this Section 20.12, "Confidential Information" means all information that is furnished in connection with this PPA to the Receiving Party or its Receiving Party's Representatives by the Disclosing Party, or to which the Receiving Party or its Receiving Party's Representatives have access by virtue of this PPA (in each case, whether such information is furnished or made accessible in writing, orally, visually or by any other (including electronic) means), or which concerns this PPA, the Disclosing Party or the Disclosing Party's stockholders, members, affiliates or subsidiaries, and which is designated by the Disclosing Party at the time of its disclosure, or promptly thereafter, as "confidential" (whether by stamping any such written material or by memorializing in writing the confidential nature of any such oral or visual information). Any such information furnished to the Receiving Party or its Receiving Party's Representatives by a director, officer, employee, affiliate, stockholder, consultant, agent, or representative of the Disclosing Party will be deemed furnished by the Disclosing Party for the purpose of this PPA. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this PPA:

- (i) information which is or becomes generally available to the public other than as a result of a disclosure or other act by the Receiving Party or its Receiving Party's Representatives;
- (ii) information which can be shown by the Receiving Party to have been already known to the Receiving Party on a non-confidential basis prior to being furnished to the Receiving Party by the Disclosing Party;
- (iii) information that becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party or a representative of the Disclosing Party if to the knowledge of the Receiving Party such source was not subject to any prohibition against transmitting the information to the Receiving Party; and
- (iv) information developed by the Parties during the negotiation of this PPA that relates solely to this PPA (as opposed to

confidential business or operating information of either Party), which information shall be deemed proprietary to both Parties, each of whom shall be free to use such information, as they would any information already known to the Parties prior to the negotiation of this PPA.

(G) The Confidential Information will remain the property of the Disclosing Party. Any Confidential Information that is reduced to writing, except for that portion of the Confidential Information that may be found in analyses, compilations, studies or other documents prepared by or for the Receiving Party in connection with this PPA, will be returned to the Disclosing Party immediately upon its request after expiration or termination of this PPA, unless such Confidential Information has been destroyed by the Receiving Party, and no copies will be retained by the Receiving Party or its Receiving Party's Representatives, unless the Parties agree otherwise. That portion of the Confidential Information that may be found in analyses, compilations, studies or other documents prepared by or for the Receiving Party, oral or visual Confidential Information, and written Confidential Information not so required to be returned will be held by the Receiving Party and kept subject to the terms of this PPA, or destroyed.

(H) It is understood and agreed that neither this PPA nor disclosure of any Confidential Information by the Disclosing Party to the Receiving Party shall be construed as granting to the Receiving Party or any of its Receiving Party's Representatives any license or rights in respect of any part of the Confidential Information disclosed to it, including any trade secrets included in any such Confidential Information.

20.13 Press Releases and Media Contact. Upon the request of either Party, the Parties shall develop a mutually agreed joint press release to be issued describing the location, size, type and timing of the Facility, the long-term nature of this PPA, and other relevant factual information about the relationship. In the event during the Term, either Party is contacted by the media concerning this PPA or the Facility, the contacted Party shall inform the other Party of the existence of the inquiry, and shall jointly agree upon the substance of any information to be provided to the media.

20.14 Jurisdiction; Venue; Waiver of Jury Trial With respect to any disputes arising out of or related to this PPA and not resolved through regular discussion, the Parties will use all reasonable efforts to reach a satisfactory solution by referring the dispute to senior management (officer of a corporation or manager or managing member of a limited liability company) of each of the Parties. Senior management of the Parties will meet (in person or telephonically) as soon as possible, on no less than seven (7) days' written notice, unless specifically agreed otherwise and shall negotiate in good faith. Senior management of the Parties shall examine any submissions by the Parties, and shall, if the dispute cannot be resolved within two (2) days (or longer as agreed to by the Parties), agree to convene for further negotiations aimed at resolving the dispute. Should senior management of the Parties be unable to resolve the dispute within thirty (30) days after commencement of negotiation by such senior management, if any of the Parties fails to comply with the time periods set forth above, or commencement of litigation is necessary to comply with a statute of limitations or contractual obligation, then the Parties

agree that upon prior written notice to the other Parties, the Parties consent to the exclusive jurisdiction of, and venue in, the state or federal courts located in Louisville, Kentucky to resolve such dispute. EACH OF THE PARTIES HERETO WAIVES ANY RIGHT IT MAY HAVE TO TRIAL BY JURY IN RESPECT OF ANY CLAIM BASED ON, ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

[remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this PPA.

Seller:

Rhudes Creek Solar, LLC

By: 

Name: TIMOTHY C. KIM

Title: PRESIDENT

Date: 11/21/2019


Buyer:

Louisville Gas and Electric Company

By: 

Name: David S. Sinclair

Title: VP Energy Supply & Analysis

Date: 11-22-19 

Kentucky Utilities Company

By: 

Name: David S. Sinclair

Title: VP Energy Supply & Analysis


Date: 11-22-19 

EXHIBIT A

NOTICE ADDRESSES

To Seller:

ibV Energy Partners LLC
777 Brickell Ave. Suite 500
Miami, FL 33131
Attention: Timothy C. Kim

With a copy to:

Henry R. King
Reed Smith LLP
506 Carnegie Center
Suite 300
Princeton, NJ 08540

To Buyers:

Director – Power Supply
Charles R. Schram
LG&E and KU Energy LLC
220 W. Main St.
Louisville, KY 40202
Telephone: [REDACTED]
email: [REDACTED]

With a copy to:

Senior Corporate Attorney
James J. Dimas
LG&E and KU Services Company
220 W. Main St.
Louisville, KY 40202
Telephone: [REDACTED]
email: [REDACTED]

EXHIBIT B

INSURANCE COVERAGES

A. Worker's Compensation Insurance. To cover obligations imposed by federal and state statutes pertaining to Seller's employees, and Employer's Liability Insurance with a limit of one million Dollars (\$1,000,000).

B. Commercial General Liability Insurance, or the equivalent, with a limit of one million Dollars (\$1,000,000) per occurrence. This policy shall include coverage for bodily injury liability, broad form property damage liability, blanket contractual, owner's protective, products liability and completed operations. Each Buyer shall be named as an additional insured with regard to this coverage.

C. Business Automobile Liability Insurance, or the equivalent, with limit of one million Dollars (\$1,000,000) per accident with respect to Seller's vehicles whether owned, hired, or non-owned.

D. Excess Liability. Excess Liability Insurance covering claims in excess of the underlying insurance described in paragraphs (A) (with respect to only Employer's Liability Insurance), (B) and (C) with a limit per occurrence of twenty-five million Dollars (\$25,000,000).

The amounts of insurance required in the foregoing paragraphs (A), (B), (C) and (D) may be satisfied by purchasing coverage in the amounts specified or by any combination of primary and excess insurance, so long as the total amount of insurance meets the requirements specified above,

E. Property Insurance. During construction and operation, Seller shall provide standard form "All Risk" insurance covering 100% of the project cost. The All-Risk property insurance shall cover physical loss or damage to the Facility including the period during testing and startup. A deductible may be carried, which deductible shall be the absolute responsibility of Seller. All-Risk property insurance shall include coverage for fire, flood, wind and storm, tornado and earthquake with respect to facilities similar in construction, location and occupancy to the Facility.

EXHIBIT C
"FORM OF SURETY BOND" – TEMPLATE 1

BOND NUMBER XXXXXXXXXX

[SURETY COMPANY]
POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we DEV/PROJECT CO LLC (hereinafter called "Principal"), and **[SURETY]** authorized to do business in the State of [STATE] (hereinafter called "Surety") are held and firmly bound unto [PPA COUNTERPARTY] (hereinafter called "Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to exceed the penal sum of XX Million XX Hundred Thousand and 00/100 (\$ XX,XXX,XX.00) DOLLARS, good and lawful money of the United States of America, the payment of which, well and truly to be made, we do bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written Contract with the above named Obligee, effective the _____ day of _____, 20____, for the Power Purchase Agreement which Contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length were attached herein.

The obligation of this Performance Bond shall be null and void unless: (1) the above Contract is in writing, and has been fully executed by both the Principal and the Obligee; (2) the Principal is in default under the above Contract, and is declared by the Obligee thereafter to be in default; and (3) the Obligee has provided written notice of the default to the Surety as promptly as possible, and in any event, **within ten (10) days after notice of such default is sent to Principal.**

The Surety, at the sole election and discretion of the Surety, may take any of the following actions:

1. With notice to the Obligee, provide financial assistance to the Principal to effect a remedy any contractual default by the Principal; or
2. Determine the amount for which the Surety may be liable to the Obligee, and as soon as practicable thereafter, tender payment thereof to the Obligee; or
3. Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating hereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

PROVIDED HOWEVER, that this bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

1. A Reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an event of default recoverable under this bond if they continue to perform their obligations under the Contract (including but not limited to timely payment of all amounts due under the contract), and provided that Principal assumes the contract within 30 days of the filing of any bankruptcy petition.
2. This bond is for the term beginning _____ and expiring _____. **The bond will automatically renew for a one year period upon the expiration date** set forth above and upon each anniversary of such date, unless at least thirty (30) days prior to such expiration date, or prior to any anniversary of such date, Surety provides written notice to both the Obligee and Principal of its intention to non-renew this bond.
3. Neither non-renewal by the Surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute a default by the Principal and entitle the Obligee to recover the full amount under this bond.
4. Surety's liability under this bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
5. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this bond unless same be brought or instituted and process served upon the Surety within six months following the expiration of the original term of this bond, or extended term as provided herein.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control. The Obligee's acceptance of this bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this _____ **DAY** _____ day of _____ **MONTH** _____, 20_____.

WITNESS:

DEV/PROJECT CO LLC:

(Name & Title)

(Signature) (SEAL)

(Name & Title)

WITNESS:

[SURETY] INSURANCE COMPANY

(Name & Title)

(SE
AL)
(Signature)

(Name & Title)

EXHIBIT C
"FORM OF SURETY BOND" – TEMPLATE 2

BOND NUMBER _____

INSURANCE COMPANY
POWER PURCHASE AGREEMENT BOND

KNOW ALL MEN BY THESE PRESENTS, That we
_____ (hereinafter called "Principal"),
and INSURANCE COMPANY authorized to do business in the State of
_____ (hereinafter called "Surety") are held and firmly bound unto
_____ (hereinafter called
"Obligee") as Obligee, for such monetary amount as incurred by the Obligee, not to
exceed the penal sum of
_____ (\$ _____)

DOLLARS, good and lawful money of the United States of America, the payment of which,
well and truly to be made, we do bind ourselves, our heirs, administrators, executors,
successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS the above bounded Principal has entered into a certain written Contract with
the above named Obligee, effective the _____ day of
_____, 20____, for the

_____ which Contract is hereby referred to and made a part hereof as fully
and to the same extent as if copies at length were attached herein.

The obligation of this Performance Bond shall be null and void unless: (1) the above
Contract is in writing, and has been fully executed by both the Principal and the Obligee;
(2) the Principal is actually in default under the above Contract, and is declared by the
Obligee thereafter to be in default; (3) the Obligee has performed all of the obligations of
the Obligee under the Contract; and (4) the Obligee has provided written notice of the
default to the Surety as promptly as possible, and in any event, within ten (10) days after
such default.

The Surety, at the sole election and discretion of the Surety, may take any of the following
actions:

1. With notice to the Obligee, provide financial assistance to the Principal to
remedy any contractual default by the Principal; or
2. Undertake the completion of the above Contract by the Surety, through its
agents or through independent contractors; or
3. Determine the amount for which the Surety may be liable to the Obligee,
and as soon as practicable thereafter, tender payment thereof to the
Obligee; or

4. Pay the full amount of the above penal sum in complete discharge and exoneration of this Performance Bond, and of all liabilities of the Surety relating hereto.

If the Surety so elects to act, all payments and expenditures by the Surety shall be applied against the above penal sum and in reduction of the limit of liability of the Surety.

PROVIDED HOWEVER, that this bond is executed by the Surety and accepted by the Obligee subject to the following expressed conditions:

5. A Reorganization under Chapter 11 of the US Bankruptcy Code by the Principal shall not constitute an event of default recoverable under this bond if they continue to perform their obligations under the Contract.
6. This bond is for the term beginning _____ and expiring _____. The bond will automatically renew for a one year period upon the expiration date set forth above and upon each anniversary of such date, unless at least thirty (30) days prior to such expiration date, or prior to any anniversary of such date, Surety provides written notice to both the Obligee and Principal of its intention to non-renew this bond.
7. Neither non-renewal by the Surety, nor failure, nor inability of the Principal to file a replacement bond shall constitute a default by the Principal recoverable by the Obligee under this bond.
8. Surety's liability under this bond and all continuation certificates issued in connection therewith shall not be cumulative and shall in no event exceed the amount as set forth in this bond or in any additions, riders, or endorsements properly issued by the Surety as supplements thereto.
9. No claim, action, suit or proceeding, except as herein set forth, shall be had or maintained against the Surety on this bond unless same be brought or instituted and process served upon the Surety within six months following the expiration of the original term of this bond, or extended term as provided herein.

In the event of conflict or inconsistency between the provisions of this Performance Bond and the provisions of the above Contract, the provisions of this Performance Bond shall control. The Obligee's acceptance of this bond and reliance upon it as security constitutes its acknowledgement and agreement as to the explicit terms stated herein under which it is offered and issued by the Surety.

Sealed with our seals and dated this _____ day of _____, 20____.

WITNESS:

PRINCIPAL:

(Name & Title)

(Signature)

(SEAL)

(Name & Title)

WITNESS:

INSURANCE COMPANY

(Name & Title)

(Signature)

(SEAL)

(Name & Title)

Exhibit D

Production Model Variables and Methodology

The Production Model shall include:

- A. As Built Facility Parameters;
- B. Solar Module Manufacturer PAN file;
- C. Inverter Manufacturer OND file;
- D. Meteorological Station Data (average of the on-site metering equipment):
 - a. Global Horizontal Irradiance;
 - b. Diffuse Irradiance;
 - c. Plane of Array Irradiance;
 - d. Albedo Irradiance;
 - e. Ambient Air Temperature; and
 - f. Wind Speed.
- E. Annual solar panel degradation

The methodology for the Production Model shall be established by the Seller's lender's independent engineer, using the engineer's standard methodology to calculate expected production during each Availability Day. The Production Model shall use the factors above, plus other relevant factors to produce the most accurate results. The Production Model shall be based on solar generation industry standard estimation software, which as of the time of agreement is PVsyst.

EXHIBIT E
Form of
GUARANTY AGREEMENT

This Guaranty Agreement (“Guaranty”) is made and entered into as of the th day of _____, 20__ by _____, a _____ corporation (“Guarantor”), in favor of **LOUISVILLE GAS AND ELECTRIC COMPANY**, a Kentucky corporation, and **KENTUCKY UTILITIES COMPANY**, both a Kentucky and a Virginia corporation, (collectively referred to as the “Beneficiary”).

RECITALS:

F. Guarantor is an affiliate of Rhudes Creek Solar, LLC, a Delaware limited liability company (“Counterparty”).

G. Beneficiary and Counterparty are parties to that certain Power Purchase Agreement dated as of November __, 2019 (as may be amended, the “Agreement”).

H. Beneficiary is obligated to provide certain credit support to Beneficiary pursuant to the Agreement, and Guarantor has agreed to provide such credit support pursuant to this Guaranty.

NOW, THEREFORE, with reference to the above recitals and in reliance thereon, and for other valuable consideration, the mutuality, receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, Guarantor agrees with Beneficiary as follows:

1. General. Subject to the provisions of sections 2 and 3 below, Guarantor hereby absolutely and unconditionally guarantees to Beneficiary, its successors and permitted assigns, the due and punctual payment by Counterparty of all amounts which are due or which may hereafter become due to Beneficiary under or pursuant to the Agreement (including, but not limited to, amounts or damages relating to indemnity, default, breach or termination). Any payments made by Guarantor to Beneficiary hereunder shall be made in the lawful money of the United States in the amount(s) required under the Agreement no later than five (5) business days following Beneficiary’s delivery to Guarantor of written notice of Counterparty’s failure to make payments when due under the Agreement and request for payment under this Guaranty.

2. Maximum Liability. THE MAXIMUM AGGREGATE LIABILITY OF GUARANTOR HEREUNDER IS _____.

3. Termination. THE TERMINATION DATE OF THIS GUARANTY IS _____. This Guaranty will continue in full force and effect until such date unless earlier terminated by either party providing 10 days’ notice to the other party; provided however, that termination of this Guaranty shall not affect the validity or enforceability of this Guaranty with respect to (1) any guaranteed obligation incurred or arising prior to the termination of this Guaranty, and (2) any extensions or renewals of,

interest accruing on, or fees, costs or expenses (including attorney's fees) incurred with respect to, such pre-termination obligations on or after termination.

4. No Conditions. This Guaranty is a direct, unconditional, absolute and continuing guaranty of payment (not of collection). Without limiting the generality of the foregoing, Guarantor agrees that this Guaranty is not conditioned upon its receipt of any type of notice except as set forth in Section 1 (including, but not limited to, notice of acceptance of this Guaranty and notice of any sales transactions), and Guarantor hereby waives any right it may otherwise have to same.

5. No Discharge. None of the following shall operate to discharge Guarantor:

5.1 Any modification of the Agreement between Beneficiary and Counterparty;

5.2 Beneficiary's acceptance of any instrument in substitution for any claim or debt;

5.3 Any renewal, extension, modification or substitution of or for any instrument;

5.4 Any leniency or failure to pursue collection by Beneficiary with respect to the Counterparty or Guarantor;

5.5 Any release or impairment of collateral, if any, which secures payment of the Counterparty's obligations to Beneficiary;

5.6 The inclusion by any subsequent separate agreement or by any amendment of this Guaranty at a later date of additional guarantors of the obligations guaranteed hereunder; or the subsequent release of any of same; or

5.7 Any delay of Beneficiary in the exercise of, or failure to exercise, any rights hereunder or under the Agreement, or any single or partial exercise by Beneficiary of any right, remedy or power hereunder or under the Agreement.

6. Restoration. If at any time, any payment made by Counterparty to Beneficiary pursuant to the Agreement is rescinded or must be otherwise restored upon the insolvency, bankruptcy, or reorganization of Counterparty, the Guarantor's obligations hereunder with respect to such payment shall be reinstated at such time as though such payment had not been made.

7. Attorney's Fees. The Guarantor will pay for all Beneficiary's costs incurred in enforcing its rights under this Guaranty, by legal process or otherwise, including, but not limited to, Beneficiary's reasonable attorney's fees.

8. Assignment. This Guaranty is assignable by Beneficiary shall inure to the benefit of Beneficiary, its successors and assigns.

9. Validity. Guarantor represents and warrants to Beneficiary that this Guaranty has been duly executed and delivered by Guarantor and constitutes the legal, valid and

binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, except to the extent that such enforceability may be limited by applicable bankruptcy, insolvency, reorganization and similar laws affecting creditors' rights generally, and subject to general principles of equity, including the discretion of a court in granting equitable remedies.

10. Governing Law. Legal rights and obligations hereunder shall be determined in accordance with the laws of the Commonwealth of Kentucky.

11. Defenses. Guarantor waives defenses arising out of (i) the bankruptcy, insolvency, dissolution or liquidation of Counterparty, (ii) ultra vires, lack of capacity, due authorization or authority of Counterparty or its signatories, and (iii) lack of due formation, existence or good standing of Counterparty and any other defenses expressly waived herein or in the Transactions or Confirmations. The Guarantor will not exercise any rights which it may have or acquire by way of subrogation, contribution, indemnity or similar against Counterparty until all amounts due to the Beneficiary hereunder shall have been paid in full.

12. Severability. Every provision of this Guaranty is intended to be severable. If any term or provision hereof is declared to be illegal or invalid for any reason whatsoever by a court of competent jurisdiction, such illegality or invalidity shall not affect the balance of the terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

13. Notices. All notices, requests, demands and other communications required or permitted to be made or given under this Guaranty shall be in writing and shall be deemed to have been given (i) on the date of personal delivery, (ii) on the date of deposit in the U.S. Mail, by registered or certified mail, postage prepaid, or (iii) on the date of delivery to a reputable overnight courier service, in each case addressed to the parties as follows:

If to Guarantor, to: _____

If to Beneficiary, to: Louisville Gas and Electric Company/Kentucky Utilities Company
220 West Main Street, 7th Floor
Louisville, Kentucky 40202
Attn: Manager, Credit and Contract Administration
Facsimile: (502) 627-3950

Any party may change its address for receiving notice by written notice given to the other as set forth above.

14. Entire Agreement/No Amendment. The Guaranty constitutes the entire agreement and understanding of the parties hereto respecting its subject matter and supersedes all prior written and contemporaneous oral agreements, representations and understandings relating to its subject matter. No term hereof may be changed, waived, discharged or terminated unless by an instrument signed by the party against whom enforcement is sought.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty on the date shown below.

GUARANTOR

By: _____

Its: _____

Date: _____

AMENDMENT NO. 1 TO POWER PURCHASE AGREEMENT

THIS AMENDMENT NO.1 TO POWER PURCHASE AGREEMENT (this “Amendment”) is entered into, effective as of January 10, 2020 (the “Amendment Effective Date”) by and among (i) **Rhudes Creek Solar, LLC** (“Seller”), a Delaware limited liability company with a principal place of business at c/o ibV Energy Partners LLC, 777 Brickell Ave., Suite 500, Miami, FL 33131, (ii) **Louisville Gas and Electric Company** (“LG&E”), a Kentucky corporation with a principal office at 220 West Main Street, Louisville, Kentucky 40202, and (iii) **Kentucky Utilities Company** (“KU”), a Kentucky and Virginia corporation with its principal office at One Quality Street, Lexington, Kentucky 40507. LG&E and KU are hereinafter referred to collectively as the “Buyers.” Seller and Buyers are sometimes together referred to below as the “Parties.”

WHEREAS, the Parties entered into a Power Purchase Agreement (the “Existing Agreement”) on November 21, 2019; and

WHEREAS, since entering into the Existing Agreement, the Parties have identified typographical errors in the Existing Agreement and desire to amend the Existing Agreement to correct such errors as set forth below.

NOW THEREFORE, intending to be legally bound and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties do agree as follows:

1. **Amendments.** The Existing Agreement is hereby amended effective as of the Amendment Effective Date as follows:
 - a. The headers on pages i, ii, and iii of the Existing Agreement are revised by deleting the words “RS Draft.”
 - b. Section 1.2(B) of the Existing Agreement is revised by deleting the second instance of the word “and.” (Specifically, the word to be deleted is at the end of the second line of Section 1.2(B) of the executed Existing Agreement.)
 - c. The definition of “Availability Underperformance Notice” in Section 1.4 of the Existing Agreement is revised by replacing the reference to Section 8.3(A) with a reference to Section 8.3(B).
 - d. The definition of “Commercial Operation” in Section 1.4 of the Existing Agreement is revised by replacing the reference to Section 4.1 with a reference to Section 4.2.
 - e. The definition of “Early Termination Date” in Section 1.4 of the Existing Agreement is revised by replacing the reference to Section 12.4(B) with a reference to Section 12.4(A).
 - f. The definition of “Test Energy” in Section 1.4 of the Existing Agreement is revised by replacing the reference to Section 4.2 with a reference to Section 4.3.
 - g. Section 8.1(B) of the Existing Agreement is revised by replacing the reference to Section 4.2 with a reference to Section 4.3.
 - h. Section 8.3(D) of the Existing Agreement is revised by replacing both references to Section 8.3(A) with references to Section 8.3(B).

- i. Section 9.1(C) of the Existing Agreement is revised by replacing the reference to Section 4.2 with a reference to Section 4.3.
 - j. Section 10.2(C) of the Existing Agreement is revised by replacing the reference to Section 4.2 with a reference to Section 4.3.
2. **Status of Contract.** As amended hereby, the Existing Agreement shall continue in full force and effect.
3. **Miscellaneous.** This Amendment shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky notwithstanding its conflict of laws rules or any principles that would trigger the application of any other law. This Amendment shall be binding upon and inure to the benefit of the Parties and their respective successors in interest, legal representatives, and assigns permitted under the Existing Agreement. This Amendment may be executed in two or more counterpart copies of the entire document or of signature pages to the document, each of which may have been executed by one or more of the signatories hereto and thereto and deliveries by mail, courier, telecopy or other electronic means, but all of which taken together shall constitute a single agreement, and each executed counterpart shall have the same force and effect as an original instrument. This Amendment constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date(s) below written, but effective as of the Amendment Effective Date.

[remainder of this page intentionally left blank]

Seller:

Rhudes Creek Solar, LLC

By: 

Name: Timothy C. Kim

Title: President

Date: January 13, 2020

Buyer:

Louisville Gas and Electric Company

By: _____

Name: _____

Title: _____

Date: _____

Kentucky Utilities Company

By: _____

Name: _____

Title: _____

Date: _____

Seller:

Rhudes Creek Solar, LLC

By: _____

Name: _____

Title: _____

Date: _____

Buyer:

Louisville Gas and Electric Company

By: David S. Sicular

Name: David S. Sicular

Title: VP Energy Supply & Analysis

Date: 1-10-20

JD

Kentucky Utilities Company

By: David S. Sicular

Name: David S. Sicular

Title: VP Energy Supply & Analysis

Date: 1-10-20

JD

Final

RENEWABLE POWER AGREEMENT
BETWEEN
KENTUCKY UTILITIES COMPANY
AND
TOYOTA MOTOR MANUFACTURING, KENTUCKY, INC.

January 13, 2020

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RENEWABLE POWER AGREEMENT

This **RENEWABLE POWER AGREEMENT (“Agreement”)** is entered into as of January 13, 2020, by and between **Kentucky Utilities Company (“KU”)**, a corporation organized and existing under the laws of the Commonwealth of Kentucky, (the **“Company”**), and **Toyota Motor Manufacturing, Kentucky, Inc.**, a corporation organized and existing pursuant to the laws of the Commonwealth of Kentucky (the **“Customer”**).

WITNESSETH:

WHEREAS, Customer owns and operates an automobile manufacturing facility and has its principal office at 1001 Cherry Blossom Way, Georgetown, Kentucky 40324 (the **“Customer Location”**).

WHEREAS, Customer purchases its electric power supply for the Customer Location from Company and desires to contract with Company for the purchase of electric energy produced from a solar powered electric generating resource; and

WHEREAS, Company has arranged for the purchase of electric energy from a specific new solar-powered renewable resource (the **“Renewable Resource”**) under a separate Power Purchase Agreement between Company and the owner of the Renewable Resource (the **“PPA”**).

WHEREAS, Company will purchase and deliver to Customer such electric energy for use in its manufacturing facility at the Customer Location.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, each intending to be legally bound, agree as follows.

1.1 Company’s Procurement of Solar-Powered Electric Generation. On Customer’s behalf and for its benefit, and at Customer’s request, Company will purchase energy from the Renewable Resource under the PPA. The Renewable Resource will be a solar photovoltaic system located in Hardin County, Kentucky and will be interconnected to Company’s transmission system. It will have a nameplate AC capacity rating of not less than ■ and not more than 100 MW. The output of the solar photovoltaic system will be non-firm, as-available energy, delivered to Company’s transmission system under the PPA and measured as described in Section 2.2 below (the **“Renewable Energy”**). The PPA has a term continuing until the twentieth (20th) anniversary of commercial operation of the Renewable Resource.

1.2 Existing Contract for Electric Service. Company currently serves Customer’s manufacturing facility with electric service pursuant to a Contract for Electric Service dated ■ with Contract Capacity of ■ kW, or kVA as appropriate, and pursuant to a ■ dated ■ (collectively the **“Existing Contract”**). The Existing Contract shall remain in place and shall continue to be effective. This Agreement shall be supplemental to and made a part of the Existing Contract. The obligations of the Parties to this Agreement, including without limitation the Term commitment as set forth in Section 1.5 below, are in addition to the Parties’

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obligations under the Existing Contract, and shall continue until termination of this Agreement irrespective of any earlier termination of the Existing Contract.

1.3 Application of Green Tariff. This Agreement is pursuant to and in accordance with the Company's Tariff on file with the Commission (the "**Tariff**") and, more specifically, Option #3 available under Standard Rate Rider GT set forth in the Tariff (the "**Green Tariff**"). Capitalized terms used but not defined in this Agreement have the meanings set forth in the Tariff.

1.4 PPA Pricing. The PPA provides for a per-kWh rate of \$ [REDACTED] per kWh. Such rate is equal to the Renewable Energy Charge defined below which will, except to the extent the Discount Renewable Energy Charge defined in Section 2.7(c) is applicable, be passed through to Customer and, along with tariffed demand charges (subject to the offsets described below) and tariffed standard rate components, paid by Customer to Company under this Agreement. The integration of the PPA pricing for the Renewable Energy into the Existing Contract rates is further described below.

1.5 Term. The term of this Agreement commences on the date first written above and shall continue until the earliest of (i) the twentieth (20th) anniversary of the date, if any, on which Company notifies Customer of commercial operation of the Renewable Resource, (ii) the termination of this Agreement pursuant to Section 2.4 below, or (iii) the date, if any, on which Company notifies Customer that the PPA has been terminated. This Agreement shall not automatically renew and may be renewed only upon mutual agreement of the Parties. This Agreement and the PPA, are subject to the further approval of the Kentucky Public Service Commission ("**Commission**") as set forth herein and shall not become effective until approved by the Commission.

1.6 Customer's Share of Energy Generated by Renewable Resource. Company will deliver to Customer, and Customer shall Purchase on the terms set forth below, Fifty percent (50%) of the Renewable Energy (the "**Allocated Renewable Energy**"). To the extent the Allocated Renewable Energy is in excess of Customer's energy usage, Section 2.8 below shall apply.

II. SALE OF POWER, RATES, BILLING, PAYMENT

2.1 Sale of Electricity. Subject to the terms and conditions of this Agreement, the Existing Contract, and the Tariff, including the Green Tariff, Company shall sell to Customer and Customer shall buy from Company all electric energy required by Customer. Company shall sell such electric energy to Customer in compliance with all requirements of Company. The electric energy shall be provided from Company's electric system to Customer at the location of Company's meters on the Customer's Location.

2.2 Measurement of Renewable Resource Output. The electric energy produced by the Renewable Resource shall be measured at the Renewable Resource meter point at the interconnection point to the Company's electric system. Such measurement shall be in terms of kWh during the same 15-minute intervals used for billing under the Existing Contract ("Contract Billing Intervals").

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2.3 Limits of Obligation to Deliver. COMPANY DOES NOT WARRANT OR GUARANTEE THE AMOUNT OF ELECTRIC ENERGY TO BE PRODUCED BY THE RENEWABLE RESOURCE FOR ANY HOURLY, DAILY, MONTHLY, ANNUAL OR OTHER PERIOD OR ANY CUMULATIVE AMOUNT. CUSTOMER ACKNOWLEDGES THAT THE ELECTRIC ENERGY PRODUCED BY THE SOLAR ELECTRIC FACILITY IS DEPENDENT UPON THE AVAILABILITY OF SUFFICIENT SUNLIGHT TO PRODUCE ELECTRIC ENERGY, AND THAT NO OR LIMITED AMOUNTS OF ELECTRIC ENERGY WILL BE PRODUCED BY THE RENEWABLE RESOURCE WHEN SUFFICIENT SUNLIGHT IS UNAVAILABLE.

2.4 Regulatory Approval; Confirmation of Condition Precedent. This Agreement and the PPA are subject to the jurisdiction and approval of the Commission. Company shall make application at Company's cost for all necessary regulatory approvals, including approval by the Commission, within sixty (60) days of the execution of this Agreement by Company and Customer. Due to uncertainty as to the timing of such approvals and the potential for such approvals to be subject to varying conditions, the delivery by each Party to the other Party of a written notice stating that the Party delivering such notice does not object to any conditions of such approvals (a "CP Confirmation Notice") shall be a condition precedent to the purchase or sale of any Renewable Energy or RECs under this Agreement. A Party's determination as to whether to deliver a CP Confirmation Notice shall be at such Party's sole discretion. Should either Party or both Parties fail to deliver a CP Confirmation Notice to the other on or before March 31, 2020, either Party may deliver a termination notice to the other Party with such termination effective on the date thirty (30) days following such notice unless, before such date, both Parties have delivered to each other CP Confirmation Notices.

2.5 Renewable Energy Certificates. Under the PPA, Company will obtain all Renewable Energy Certificates ("RECs") attributable to the Renewable Energy. Company will transfer to Customer all RECs attributable to the Allocated Renewable Energy ("**Allocated RECs**") without additional charges. All Allocated RECs will be registered with (i) the Generation Attribute Tracking System ("GATS") administered by PJM Environmental Information Services ("**PJMEIS**"), or (ii) in the event the PJMEIS is unavailable or unsuitable in the view of Company, another proven renewable asset tracking system associated with the major regional Independent System Operators (ISO). Customer and Company shall cooperate to obtain any and all required approvals and consents that may be required to effectuate deposits and retirements concerning the Allocated RECs under the applicable governing rules. The transfer will be without cost to Customer except for reimbursement to Company for any out-of-pocket fees charged by the tracking system to effectuate the transfer, which fees are paid initially by Company.

2.6 Company's Terms and Conditions. This Agreement is subject to the Terms and Conditions contained in the Tariff, including the Green Tariff. Should there be any conflict in the terms between such Terms and Conditions and this Agreement, the terms of this Agreement shall, following approval of this Agreement by the Commission, prevail.

2.7 Rates. Customer shall pay Company for its services during the Term pursuant to this Agreement at the rates set forth in Customer's applicable Tariff ([REDACTED]), the Green Tariff, and this Agreement, as set forth below:

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(a) Pursuant to the [REDACTED] Tariff and the Existing Contract, Customer's rates include a Basic Service Charge per day, plus an Energy Charge per kWh, plus a Maximum Load Charge per kVA for Customer's Peak Demand Period, Intermediate Demand Period, and Base Demand Periods, and Adjustment charges as described therein.

(b) Renewable Energy Charge. In addition, Customer will pay Company \$ [REDACTED] per kWh (the "Renewable Energy Charge") for all Allocated Renewable Energy other than Discount Renewable Energy as defined in Section 2.7(c). The Energy Charge (as such term is used in the Tariff) for all kWh of energy delivered to Customer in excess of the Allocated Renewable Energy delivered to Customer shall be equal to the Energy Charge in the Existing Contract. The Renewable Energy Charge and, to the extent otherwise applicable, the Discounted Renewable Energy Charge shall be applicable throughout the Term of this Agreement and shall remain applicable during the Term even if the Existing Contract terminates.

(c) Discounted Renewable Energy. To the extent the Renewable Energy in any calendar year exceeds [REDACTED] kWh, all Renewable Energy in excess of such amount during such calendar year shall be treated as "Discounted Renewable Energy" in accordance with this Section 2.7(c). Discounted Renewable Energy, if any, shall be allocated to Customer in the same percentage as other Renewable Energy and shall, to the extent so allocated to Customer, be included in Allocated Renewable Energy. Customer will pay Company \$ [REDACTED] per kWh (the "Discounted Renewable Energy Charge") for any Discounted Renewable Energy included in Allocated Renewable Energy, with such Discounted Renewable Energy Charge paid in lieu of the Renewable Energy Charge with respect to such Discounted Renewable Energy. (All Allocated Renewable Energy other than Discounted Renewable Energy shall continue to be subject to the Renewable Energy Charge.)

(d) Energy Offsets. Each kWh of Allocated Renewable Energy in a Contract Billing Interval shall be offset against the kWh of Customer's energy usage on which the Energy Charge for such Contract Billing Interval is based under the Existing Contract, so that Customer is not subjected to two Energy Charges for the same kWh used.

(e) Peak and Intermediate Demand Charge Offsets. To the extent the Allocated Renewable Energy is coincident with Customer's energy usage during each Contract Billing Interval, Customer's Peak and Intermediate Demands under the Existing Contract will be

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reduced by the amount of Allocated Renewable Energy delivered to Company in such Contract Billing Interval. The resultant demands for all Contract Billing Intervals in the billing period will only be used in calculating Peak and Intermediate Demand Charges under the Existing Contract.

(f) Base Demand Charges. Customer's Base Demand, which covers [REDACTED] charges, will not be reduced based on Allocated Renewable Energy since it must be delivered to Customer. Customer will pay a [REDACTED] Charge equal to the Maximum Load Charge during the Base Demand Period of the Existing Contract.

(g) Standard Rate Components. Rates shall include standard rate components, e.g., basic service charges and cost-recovery mechanisms as though Customer purchased all of its energy and demand under its applicable standard Tariff rate schedule(s). Such standard rate components may change from time-to-time as required or approved by the Commission. Charges and credits for adjustments to metered load will appear as separate line items on bills under the Existing Contract. Bill adjustments may need to be reviewed and modified after any future rate design modifications approved by the Commission.

(h) Should the rate schedule of most predominant application to Customer (currently [REDACTED]) change during the Term, the rates applicable to the succeeding rate schedule of most predominant application to Customer shall be used for calculating the Existing Contract rates, but not the Energy Charge for Allocated Renewable Energy, under this Agreement.

2.8 Excess Allocated Renewable Energy. Customer will receive a bill credit (credited against charges under the Existing Contract and this Agreement) from Company for all Allocated Renewable Energy delivered to Company in excess of Customer's energy usage during the same Contract Billing Intervals as defined above ("**Excess Renewable Energy**"). The total billing period credit will be calculated as the Company's avoided energy cost ("**AEC**") rate as described in Company's LQF tariff rider multiplied by the total amount of Excess Renewable Energy for all Contract Billing Intervals within the billing period.

2.9 Performance Security. [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]

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██████████	██████████
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2.10 Billing. Customer will be billed monthly under the Green Tariff. Such billing will be added to Customer’s billing under any standard rate schedules plus applicable riders plus applicable adjustment clauses. Company shall include in the Customer’s monthly invoice the quantity of Allocated Renewable Energy, the applicable energy and demand offsets for such, any Excess Renewable Energy received, and the Existing Contract charges. Upon Customer’s request, which may not be more frequent than once per year, Company shall provide Customer with information sufficient for Customer to verify for the most recent thirty-six (36) month period, the Renewable Energy produced by the Renewable Resource and the credits earned by Customer; provided that Customer also may request such information in connection with any *Force Majeure* Event or in the event of any default by Company in its obligations under this Agreement. In the event the Existing Contract is terminated prior to the end of the Term of this Agreement, Customer shall maintain a billing address for the remainder of such Term, which, in addition to serving as a billing address, shall serve as a payment address in the event credits under Section 2.8 exceed amounts owed by Customer under Sections 2.7(b) and 2.7(c).

2.11 Payment. Subject to any applicable requirements of the Commission, Customer shall pay each invoice within the time specified on the invoice according to Company’s normal billing practices. Payments shall be made by electronic funds transfer to an account designated by Company in the invoice or in a written notice delivered to Customer. Any amounts not paid when due, including any amounts properly disputed and later determined to be owed, shall accrue late fees as set forth in the Tariff. Further, Company may at its option at any time recoup or offset amounts owed by Company to Customer or its affiliates against any amounts owed by Customer to Company.

2.12 Full-Requirements Purchase. Throughout the Term, Customer shall receive from Company, and pay to Company for all its electric energy requirements pursuant to Company’s applicable Tariff; provided that Customer may install its own electric generation equipment “behind the meter” but shall remain responsible for its purchase obligations under this Agreement and under the Existing Contract including without limitation the demand charges associated with its Contract Capacity. Company shall be required to provide, without regard to the operation of or output of the Renewable Resource, Customer’s full electric energy requirements.

2.13 Renewable Resource Design and Equipment. Company does not warrant the Renewable Resource including but not limited to design, equipment, or output. **CUSTOMER ACKNOWLEDGES THAT NO WARRANTY EXISTS WITH RESPECT TO THE EFFICACY, EFFICIENCY, OR LIFE EXPECTANCY OF THE RENEWABLE RESOURCE AND COMPANY HEREBY DISCLAIMS ANY AND ALL SUCH WARRANTIES. CUSTOMER ACKNOWLEDGES THAT TECHNOLOGICAL ADVANCES, CHANGING MARKET CONDITIONS, AND ACTIONS OF**

GOVERNMENTAL AUTHORITIES MAY AFFECT THE ECONOMIC OR OPERATING BASES ON WHICH THE RENEWABLE RESOURCE'S ECONOMICS ARE BASED. COMPANY HEREBY DISCLAIMS ALL IMPLIED WARRANTIES WITH RESPECT TO THE RENEWABLE RESOURCE, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

2.14 Ownership of Tax Attributes. The PPA does not provide for Company to receive any tax credits or similar tax incentives that may arise as a result of the operation of the Renewable Resource (“**Tax Attributes**”). However, in the event Company receives any Tax Attributes under the PPA, Company shall be the owner of such Tax Attributes and shall be entitled to transfer such Tax Attributes, if any, to any person.

2.15 No Transfer. This Agreement shall not be resold, assigned or otherwise transferred by Customer without the prior written consent of Company, which prior written consent shall not be unreasonably withheld; provided that, Customer may assign its rights under this Agreement to a creditworthy affiliate with the consent of Company, which consent may not be unreasonably withheld, conditioned or denied. Company may assign this Agreement to any entity that purchases or otherwise acquires substantially all of Company’s equity securities or assets, or to an affiliate which assumes all of Company’s responsibilities under this Agreement, subject to approval of the Commission where required.

2.16 Sales Taxes. Customer shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal (“**Governmental Authority**”), on the sale of electric energy by Company to Customer.

2.17 Allocation of Liquidated Damages under the PPA. The PPA contains guarantees regarding the performance of the Renewable Resource and provides for payment of liquidated damages in connection with failures to meet such guarantees. In the event Company collects liquidated damages under the PPA as a result of the performance of the Renewable Resource, Company shall pay to Customer an amount equal to such liquidated damages multiplied by the percentage stated in Section 1.6 above.

III. MISCELLANEOUS

3.1 Excuse of Force Majeure Event. Neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a *Force Majeure* Event (as defined below); provided that the Party claiming relief as a result of the *Force Majeure* Event shall promptly (i) notify the other Party in writing of the existence and details of the *Force Majeure* Event; (ii) exercise all reasonable efforts to minimize delay caused by such *Force Majeure* Event; (iii) notify the other Party in writing of the cessation of such *Force Majeure* Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. For purposes of this

Agreement, “*Force Majeure Event*” means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party. Subject to the foregoing, *Force Majeure* Events may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of Governmental Authority, acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) equipment failure or unavailability or delay in receiving equipment, parts, or supplies, and (v) strikes or labor disputes. Changes in prices for electricity or inability to pay amounts required under this Agreement shall not constitute *Force Majeure* Events.

3.2 Change in Law. In the event there is a Change in Law (as defined below) that is applicable to the operation of the Renewable Resource and materially affects the generation of the Renewable Energy or Allocated Renewable Energy (including, without limitation, the quantity and/or cost of the Renewable Energy and Allocated Renewable Energy), the sale of electric energy produced by the Renewable Resource, or any other obligation of the Company hereunder, and compliance with the Change in Law results in an increase in Company’s costs to purchase, transmit, and deliver the Allocated Renewable Energy to Customer, Company will promptly submit to Customer a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Company’s costs; and (iii) Company’s proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Customer may, within thirty (30) days of such notice from Company, submit to Company a written notice accepting or rejecting the adjustment proposed in Company’s notice. In the event Customer rejects Company’s adjustment, Company may terminate this Agreement by thirty (30) days’ written notice to Customer, without liability to Customer. If Customer accepts or does not reject the adjustment proposed by Company as described above in this Section 3.2, Customer agrees to an adjustment in the then applicable and future rates such that the new rates compensate Company for the total cost increase arising from the Change in Law and said adjustment will remain in effect for as long as the costs arising from the Change in Law continue to be incurred by the Company. “**Change in Law**” means an amendment, modification, or other change of applicable law, regulation, order or ordinance, enacted, adopted, issued, or promulgated by a Governmental Authority after the date first written above.

3.3 LIMITATION ON DAMAGES. EXCEPT AS EXPLICITLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, PUNITIVE, EXEMPLARY, INDIRECT OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT.

3.4 Dispute Resolution. Exclusive Procedure. Any dispute, controversy, or claim arising out of or relating to this Agreement or the breach, interpretation, termination, performance, or validity of this Agreement (each, a “**Dispute**”) shall be resolved pursuant to the procedures of this Agreement.

3.5 Dispute Notice. If a Dispute arises between Company and Customer, then any Party to such Dispute (each, a “**Disputing Party**”) may provide written notice thereof to the other Disputing Party, including a reasonably detailed description of the subject matter of the Dispute

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(the “**Dispute Notice**”). Any Disputing Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case the Disputing Parties nonetheless will continue to pursue resolution of the Dispute pursuant to this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, in no event shall any Party be entitled to bring a Dispute arising under this Agreement more than two (2) years after such Party knew or reasonably should have known of the facts or circumstances giving rise to the Dispute or, in the case of a Dispute with respect to any invoice, more than one (1) year after the date of the invoice.

3.6 Informal Dispute Resolution. To the extent consistent with KRS Chapter 278, the Disputing Parties shall make a good faith effort to resolve the Dispute by prompt negotiations between or among each Disputing Party's representative so designated in writing to the other Disputing Party or Disputing Parties (each, a “**Manager**”) who shall have authority to settle the Dispute. If the Managers are not able to resolve the Dispute within sixty (60) days after the date of the Dispute Notice, then the Parties will be permitted to seek their rights and remedies permitted in law and equity. These provisions shall survive any termination of this Agreement.

3.7 Governing Law. This Agreement shall be governed by the laws of the Commonwealth of Kentucky, including principles of good faith and fair dealing that will apply to all dealings under this Agreement without regard to the conflicts of laws principles of such state. The United States District Court for the Western District of Kentucky, or the Jefferson Circuit Court, each located in Louisville, Kentucky, shall have exclusive jurisdiction and venue of any legal action arising out of this Agreement, and each Party submits to the exclusive jurisdiction of such Court; provided that Disputes or other matters which are within the exclusive jurisdiction of the Commission under KRS Chapter 278 shall remain subject to adjudication by the Commission in lieu of the aforementioned Courts.

3.8 Forward Contract. Company and Customer agree that, for the purpose of this Agreement, Company is a forward contract merchant and that this Agreement is a forward contract and commodity contract.

3.9 Notices. A CP Confirmation Notice shall be deemed properly given if sent to the address of such Party set forth below via a nationally recognized overnight courier. Any other notice required by this Agreement to be made to a Party may be made in the same manner as a CP Confirmation Notice or by electronic mail to the e-mail address set forth below, followed by delivery via a nationally recognized overnight courier, for the recipient. A Party may change its notice address by written notice to the other Party.

3.9.1. If to Company:

LG&E and KU
One Quality Street
Lexington, KY 40507
Attn: Joseph Howard, Key Account Manager
E-Mail: [REDACTED]

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Copy to:
LG&E and KU
c/o Legal Department 11th Floor
220 West Main Street
Louisville, KY 40202

3.9.2. If to Customer:

Toyota Motor Manufacturing, Kentucky, Inc.
c/o Toyota Motor North America, Inc.
6565 Headquarters Drive,
Plano, Texas 75024
Attn: David Absher - SI/ENVI-k
E-Mail: [REDACTED]

With copies to:

Toyota Motor North America, Inc.
6565 Headquarters Drive, W1-5B
Plano, Texas 75024
Attn: Tyr [REDACTED] sel
E-Mail: [REDACTED]

And

Munsch Hardt Kopf & Harr, PC
500 N Akard, Suite 3800
Dallas, Texas 75201
Attn: Mic [REDACTED]
E-Mail: [REDACTED]

IN WITNESS WHEREOF, intending to be legally bound hereby, Company and Customer have executed this Renewable Energy Agreement as of the date first set forth above.

Company:

Customer:

Kentucky Utilities Company

Toyota Motor Manufacturing, Kentucky, Inc.

By: 

By: 

Paul W. Thompson

JASON REID

Printed Name

Printed Name

CEO and President

VP of ADMINISTRATION & CORPORATE SECRETARY

Title

Title

JD

RENEWABLE POWER AGREEMENT
BETWEEN
KENTUCKY UTILITIES COMPANY
AND
DOW SILICONES CORPORATION
JANUARY 10, 2020

CONFIDENTIAL INFORMATION REDACTED

RENEWABLE POWER AGREEMENT

This **RENEWABLE POWER AGREEMENT** (“**Agreement**”) is entered into as of January 10, 2020 (“**Effective Date**”), by and between **Kentucky Utilities Company** (“**KU**”), a corporation organized and existing under the laws of the Commonwealth of Kentucky, (the “**Company**”), and **Dow Silicones Corporation**, a corporation formerly known as Dow Corning Corporation and organized and existing pursuant to the laws of the State of Michigan (the “**Dow**”). **Company** and **Dow** will individually be referred to as a “**Party**” and collectively as “**Parties.**”

WITNESSETH:

WHEREAS, **Dow** owns and operates a manufacturing facility located at 4770 Highway 42 E, Carrollton, Kentucky 41008 (the “**Dow Location**”).

WHEREAS, **Dow** purchases its electric power supply for the **Dow Location** from **Company** and desires to contract with **Company** for the purchase of electric energy produced from a solar powered electric generating resource; and

WHEREAS, **Company** has arranged for the purchase of electric energy from a specific solar-powered renewable resource (the “**Renewable Resource**”) under a separate Power Purchase Agreement between **Company** and the owner of the **Renewable Resource** (the “**PPA**”).

WHEREAS, **Company** will purchase and deliver to **Dow** such electric energy from the **Renewable Resource** for use in its manufacturing facility at the **Dow Location**.

NOW, THEREFORE, in consideration of the premises, the covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties, each intending to be legally bound, agree as follows.

I. SOLAR POWERED ELECTRIC GENERATION

1.1 Company’s Procurement of Solar-Powered Electric Generation. On **Dow**’s behalf and for its benefit, and at **Dow**’s request, **Company** will purchase energy from the **Renewable Resource** under the **PPA**. The **Renewable Resource** will be a solar photovoltaic system located in Kentucky and will be interconnected to **Company**’s transmission system. It will have a nameplate AC capacity rating of not less than [REDACTED] and not more than 100 MW. The output of the solar photovoltaic system will be non-firm, as-available energy, delivered to **Company**’s transmission system under the **PPA** and measured as described in Section 2.2 below (the “**Renewable Energy**”). The **PPA** has a term continuing until the twentieth (20th) anniversary of commercial operation of the **Renewable Resource**.

1.2 Existing Contract for Electric Service. **Company** currently serves the **Dow Location** with electric service pursuant to a Contract for Electric Service dated [REDACTED] with Contract Capacity of [REDACTED] kW, or kVA as appropriate (the “**Existing Contract**”). The **Existing Contract** shall remain in place and shall continue to be effective. This Agreement shall be supplemental to the **Existing Contract**. The obligations of the Parties to this Agreement, including without limitation the Term commitment as set forth in Section 1.5 below, are in addition to the Parties’ obligations under the **Existing Contract**,

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and shall continue until termination of this Agreement irrespective of any earlier termination of the Existing Contract.

- 1.3 Application of Green Tariff.** This Agreement is pursuant to and in accordance with the Company's Tariff on file with the Commission (the "**Tariff**") and, more specifically, Option #3 available under Standard Rate Rider GT set forth in the Tariff (the "**Green Tariff**"). Capitalized terms used but not defined in this Agreement have the meanings set forth in the Tariff.
- 1.4 PPA Pricing.** The PPA provides for a per-kWh rate of \$ [REDACTED] per kWh. Such rate is equal to the Renewable Energy Charge defined below, which will, except to the extent the Discount Renewable Energy Charge defined in Section 2.7(c) is applicable, be passed through to Dow and, along with tariffed demand charges (subject to the offsets described below) and tariffed standard rate components, paid by Dow to Company under this Agreement. The integration of the PPA pricing for the Renewable Energy into the Existing Contract rates is further described below.
- 1.5 Term.** This Agreement and the PPA are subject to the further approval of the Kentucky Public Service Commission ("**Commission**") as set forth herein, and the purchase and sale of Allocated Renewable Energy and Allocated RECs shall not commence until such approval by the Commission. Subject to such approval, this Agreement is effective on the Effective Date, and the purchase and sale of Allocated Renewable Energy and Allocated RECs will, also subject to such approval, commence on the date of Company's written notice to Dow of commercial operation of the Renewable Resource ("**Commencement Date**"). The Agreement will terminate the earliest of (i) the twentieth (20th) anniversary of the Commencement Date, (ii) the termination of this Agreement pursuant to Section 2.4 below, or (iii) the date, if any, on which Company notifies Dow that the PPA has been terminated ("**Term**").
- 1.6 Dow's Share of Energy Generated by Renewable Resource.** Company will deliver to Dow, and Dow shall purchase on the terms set forth below, twenty-five percent (25%) of the Renewable Energy (the "**Allocated Renewable Energy**"). To the extent the Allocated Renewable Energy is in excess of Dow's energy usage, Section 2.8 below shall apply.

II. SALE OF POWER, RATES, BILLING, PAYMENT

- 2.1 Sale of Electricity.** Subject to the terms and conditions of this Agreement, the Existing Contract, and the Tariff, including the Green Tariff, Company shall sell to Dow and Dow shall buy from Company all electric energy required by Dow at the Dow Location. Company shall sell such electric energy to Dow in compliance with all requirements of Company. The electric energy shall be provided from Company's electric system to Dow at the location of Company's meters on the Dow's Location.
- 2.2 Measurement of Renewable Resource Output.** The electric energy produced by the Renewable Resource shall be measured at the Renewable Resource meter point at the interconnection point to the Company's electric system. Such measurement shall be in terms of kWh during the same intervals used for billing under the Existing Contract ("**Contract Billing Intervals**").

- 2.3 Limits of Obligation to Deliver. Company does not warrant or guarantee the amount of electric energy to be produced by the Renewable Resource for any hourly, daily, monthly, annual or other period or any cumulative amount. Dow acknowledges that the electric energy produced by the solar electric facility is dependent upon the availability of sufficient sunlight to produce electric energy, and that no or limited amounts of electric energy will be produced by the Renewable Resource when sufficient sunlight is unavailable.
- 2.4 Regulatory Approval; Confirmation of Condition Precedent. This Agreement and the PPA are subject to the jurisdiction and approval of the Commission. Company shall make application at Company's cost for all necessary regulatory approvals, including approval by the Commission, within sixty (60) days of the execution of this Agreement by Company and Dow. Due to uncertainty as to the timing of such approvals and the potential for such approvals to be subject to varying conditions, the delivery by each Party to the other Party of a written notice stating that the Party delivering such notice does not object to any conditions of such approvals (a "CP Confirmation Notice") shall be a condition precedent to the purchase or sale of any Renewable Energy or RECs under this Agreement. A Party's determination as to whether to deliver a CP Confirmation Notice shall be at such Party's sole discretion. Should either Party or both Parties fail to deliver a CP Confirmation Notice to the other on or before March 31, 2020, either Party may deliver a termination notice to the other Party with such termination effective on the date thirty (30) days following such notice unless, before such date, both Parties have delivered to each other CP Confirmation Notices.
- 2.5 Renewable Energy Certificates. Under the PPA, Company will obtain all Renewable Energy Certificates ("RECs") attributable to the Renewable Energy. Company will transfer to Dow all RECs attributable to the Allocated Renewable Energy ("Allocated RECs") without additional charges. All Allocated RECs will be registered with (i) the Generation Attribute Tracking System ("GATS") administered by PJM Environmental Information Services ("PJM EIS"), (ii) the MISO's Midwest Renewable Energy Tracking System ("MRETS"), or (iii) another proven renewable asset tracking system associated with the major regional Independent System Operators (ISO). Dow and Company shall cooperate to obtain any and all required approvals and consents that may be required to effectuate deposits and retirements concerning the Allocated RECs under the applicable governing rules. Except as provided below in this Section 2.5, the transfer of RECs will be without cost to Dow. In the event the tracking system begins to charge Company out-of-pocket fees to effectuate transfers of RECs, Company will promptly submit to Dow a written notice setting forth (i) how such fees are determined; (ii) the manner in which such fees increase Company's costs; and (iii) Company's proposed terms for allocating the costs of such fees between Company and Dow. Dow may, within thirty (30) days of such notice from Company, submit to Company a written notice accepting or rejecting the terms for allocation of such fees proposed in Company's notice. In the event Dow rejects the terms for allocation of such fees proposed in Company's notice, Company may terminate this Agreement by thirty (30) days' written notice to Customer, without liability to Dow. If Dow rejects the terms for allocation of such fees proposed in Company's notice stating such proposed allocation, and Company does not terminate, the transfers of RECs will continue to be without cost to Dow. If Dow accepts or does not reject the allocation proposed by Company as described above in this Section 2.5, Dow agrees to such allocation.

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- 2.6 Company's Terms and Conditions.** This Agreement is subject to the terms and conditions contained in the Tariff, including the Green Tariff. Should there be any conflict in the Tariff terms and conditions and this Agreement's terms and conditions, the terms of this Agreement shall, following approval of this Agreement by the Commission, prevail.
- 2.7 Rates.** Dow shall pay Company for its services during the Term pursuant to this Agreement at the rates set forth in Dow's applicable Tariff ([REDACTED]), the Green Tariff, and this Agreement, as set forth below:
- (a) Pursuant to the [REDACTED] Tariff and the Existing Contract, Dow's rates include a Basic Service Charge per day, plus an Energy Charge per kWh, plus a Maximum Load Charge per kVA for Dow's Peak Demand Period, Intermediate Demand Period, and Base Demand Periods, and Adjustment charges as described in the [REDACTED] Tariff and the Existing Contract.
 - (b) Renewable Energy Charge. In addition, Dow will pay Company the Renewable Energy Charge of \$ [REDACTED] per kWh for all Allocated Renewable Energy other than Discount Renewable Energy as defined in Section 2.7(c). The Energy Charge (as such term is used in the Tariff) for all kWh of energy delivered to Dow in excess of the Allocated Renewable Energy delivered to Dow shall be equal to the Energy Charge in the Existing Contract. The Renewable Energy Charge and, to the extent otherwise applicable, the Discounted Renewable Energy Charge shall be applicable throughout the Term of this Agreement and shall remain applicable during the Term even if the Existing Contract terminates.
 - (c) Discounted Renewable Energy. To the extent the Renewable Energy in any calendar year exceeds [REDACTED] kWh, all Renewable Energy in excess of such amount during such calendar year shall be treated as "Discounted Renewable Energy" in accordance with this Section 2.7(c). Discounted Renewable Energy, if any, shall be allocated to Dow in the same percentage as other Renewable Energy and shall, to the extent so allocated to Dow, be included in Allocated Renewable Energy. Dow will pay Company \$ [REDACTED] per kWh (the "Discounted Renewable Energy Charge") for any Discounted Renewable Energy included in Allocated Renewable Energy, with such Discounted Renewable Energy Charge paid in lieu of the Renewable Energy Charge with respect to such Discounted Renewable Energy. All Allocated Renewable Energy other than Discounted Renewable Energy shall continue to be subject to the Renewable Energy Charge.
 - (d) Energy Offsets. Each kWh of Allocated Renewable Energy in a Contract Billing Interval shall be offset against the kWh of Dow's energy usage on which the Energy Charge for such Contract Billing Interval is based under the Existing Contract, so that Dow is not subjected to two Energy Charges for the same kWh used.
 - (e) Peak and Intermediate Demand Charge Offsets. To the extent the Allocated Renewable Energy is coincident with Dow's energy usage during each 15-minute interval, Dow's Peak and Intermediate Demands under the Existing Contract will be reduced by the amount of Allocated Renewable Energy delivered to Company in the respective 15-

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- minute interval. The resultant demands for all 15-minute intervals in the billing period will only be used in calculating Peak and Intermediate Demand Charges under the Existing Contract.
- (f) Base Demand Charges. Dow's Base Demand, which covers [REDACTED] charges, will not be reduced based on Allocated Renewable Energy since it must be delivered to Dow. Dow will pay a [REDACTED] Charge equal to the Maximum Load Charge during the Base Demand Period of the Existing Contract.
 - (g) Standard Rate Components. Rates shall include standard rate components, *e.g.*, basic service charges and cost-recovery mechanisms as though Dow purchased all of its energy and demand under its applicable standard Tariff rate schedule(s). Such standard rate components may change from time-to-time as required or approved by the Commission. Charges and credits for adjustments to metered load will appear as separate line items on bills under the Existing Contract. Bill adjustments may need to be reviewed and modified after any future rate design modifications approved by the Commission.
 - (h) Should the rate schedule of most predominant application to Dow (currently [REDACTED]) change during the Term, the rates applicable to the succeeding rate schedule of most predominant application to Dow shall be used for calculating the Existing Contract rates, but not the Energy Charge for Allocated Renewable Energy, under this Agreement.

2.8 Excess Allocated Renewable Energy. Dow will receive a bill credit (credited against charges under the Existing Contract and this Agreement) from Company for all Allocated Renewable Energy delivered to Company in excess of Dow's energy usage during the same Contract Billing Intervals as defined above ("**Excess Renewable Energy**"). The total billing period credit will be calculated as the Company's avoided energy cost ("**AEC**") rate as described in Company's LQF tariff rider multiplied by the total amount of Excess Renewable Energy for all Contract Billing Intervals within the billing period.

2.9 Performance Security. [REDACTED]

2.10 Billing. Dow will be billed monthly under the Green Tariff. Such billing will be added to Dow's billing under any standard rate schedules plus applicable riders plus applicable adjustment clauses. Company shall include in Dow's monthly invoice the quantity of Allocated Renewable Energy, the applicable energy and demand offsets for such, any Excess Renewable Energy received, and the Existing Contract charges. Upon Dow's request, which may not be more frequent than once per year, Company shall provide Dow with information sufficient for Dow to verify for the most recent 24-month period, the Renewable Energy produced by the Renewable Resource and the credits earned by Dow. Dow also may request such information in connection with any *Force Majeure* Event or in the event of any default by Company in its obligations under this Agreement. In the event the Existing Contract is terminated prior to the end of the Term of this Agreement, Dow shall maintain a billing

address for the remainder of such Term, which, in addition to serving as a billing address, shall serve as a payment address in the event credits under Section 2.8 exceed amounts owed by Dow under Sections 2.7(b) and 2.7(c).

- 2.11 Payment.** Subject to any applicable requirements of the Commission, Dow shall pay each invoice within the time specified on the invoice according to Company's normal billing practices. Payments shall be made by electronic funds transfer to an account designated by Company in the invoice or in a written notice delivered to Dow. Any amounts not paid when due, including any amounts properly disputed and later determined to be owed, shall accrue late fees as set forth in the Tariff.
- 2.12 Full-Requirements Purchase.** Throughout the Term, Dow shall receive from Company, and pay to Company for all its electric energy requirements at the Dow Location pursuant to Company's applicable Tariff. Dow may install its own electric generation equipment "behind the meter" but shall remain responsible for its purchase obligations under this Agreement and under the Existing Contract including without limitation the demand charges associated with its Contract Capacity. Company shall be required to provide, without regard to the operation of or output of the Renewable Resource, Dow's full electric energy requirements at the Dow Location.
- 2.13 Renewable Resource Design and Equipment.** Company does not warrant the Renewable Resource including but not limited to design, equipment, or output. Dow acknowledges that no warranty exists with respect to the efficacy, efficiency, or life expectancy of the Renewable Resource and Company disclaims any and all such warranties. Dow acknowledges that technological advances, changing market conditions, and actions of governmental authorities may affect the economic or operating bases on which the Renewable Resource's economics are based. Company disclaims all implied warranties with respect to the Renewable Resource, including, without limitation, warranties of merchantability and fitness for a particular purpose.
- 2.14 Ownership of Tax Attributes.** The PPA does not provide for Company to receive any tax credits or similar tax incentives that may arise as a result of the operation of the Renewable Resource ("**Tax Attributes**"). However, in the event Company receives any Tax Attributes under the PPA, Company shall be the owner of such Tax Attributes and shall be entitled to transfer such Tax Attributes, if any, to any person.
- 2.15 No Assignment.** This Agreement shall not be resold, assigned or otherwise transferred by either Party without the other Party's prior written consent, which prior written consent shall not be unreasonably withheld. Customer, however, may assign this Agreement to a creditworthy affiliate, and Company may assign this Agreement to any entity that, following approval of such actions by the Commission, becomes the supplier of electric service to the Dow Location and assumes all of Company's responsibilities under this Agreement
- 2.16 Sales Taxes.** Dow shall be responsible for all taxes, fees, and charges, including sales, use, and gross receipts taxes, imposed or authorized by any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any

administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal (“**Governmental Authority**”), on the sale of electric energy by Company to Dow.

III. MISCELLANEOUS

- 3.1 Excuse of Force Majeure Event.** Subject to the second sentence of this Section, neither Party shall be considered in breach of this Agreement or liable for any delay or failure to comply with this Agreement, if and to the extent that such delay or failure is attributable to the occurrence of a *Force Majeure* Event (as defined below). The Party claiming relief as a result of the *Force Majeure* Event shall promptly (i) notify the other Party in writing of the existence and details of the *Force Majeure* Event; (ii) exercise all reasonable efforts to minimize delay caused by such *Force Majeure* Event; (iii) notify the other Party in writing of the cessation of such *Force Majeure* Event; and (iv) resume performance of its obligations hereunder as soon as practicable thereafter. For purposes of this Agreement, “**Force Majeure Event**” means any act or event that prevents the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party. Subject to the foregoing, *Force Majeure* Events may include but are not limited to the following acts or events: (i) natural phenomena, such as storms, hurricanes, floods, lightning and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omissions of the Party seeking to be excused from performance; (iii) acts of Governmental Authority, acts of war or public disorders, civil disturbances, riots, insurrection, sabotage, epidemic, terrorist acts, or rebellion; (iv) equipment failure or unavailability or delay in receiving equipment, parts, or supplies, and (v) strikes or labor disputes. Changes in prices for electricity or inability to pay amounts required under this Agreement shall not constitute *Force Majeure* Events.
- 3.2 Change in Law.** In the event there is a Change in Law (as defined below) that is applicable to the operation of the Renewable Resource, the sale of electric energy produced by the Renewable Resource, or any other obligation of the Company hereunder, and compliance with the Change in Law results in an increase in Company’s costs to purchase, transmit, and deliver the Allocated Renewable Energy to Dow, Company will promptly submit to Dow a written notice setting forth (i) the applicable Change in Law; (ii) the manner in which such Change in Law increases Company’s costs; and (iii) Company’s proposed adjustment to the then applicable and future rates for electric energy in this Agreement to reflect such increases in costs. Dow may, within thirty (30) days of such notice from Company, submit to Company a written notice accepting or rejecting the adjustment proposed in Company’s notice. In the event Dow rejects Company’s adjustment, Company may terminate this Agreement by thirty (30) days’ written notice to Customer, without liability to Dow. If Dow rejects Company’s adjustment and Company does not terminate, then there will be no price adjustment. If Dow accepts or does not reject the adjustment proposed by Company as described above in this Section 3.2, Dow agrees to an adjustment in the then applicable rates. “**Change in Law**” means an amendment, modification, or other change of applicable law, regulation, order or ordinance, enacted, adopted, issued, or promulgated by a Governmental Authority after the date first written above.

- 3.3 LIMITATION ON DAMAGES.** Except as explicitly provided in this Agreement, neither Party shall be liable to the other Party for any special, punitive, exemplary, indirect or consequential damages arising out of or in connection with this Agreement.
- 3.4 Dispute Resolution. Exclusive Procedure.** Any dispute, controversy, or claim arising out of or relating to this Agreement or the breach, interpretation, termination, performance, or validity of this Agreement (each, a “**Dispute**”) shall be resolved pursuant to the procedures of this Agreement.
- 3.5 Dispute Notice.** If a Dispute arises between Company and Dow, then any Party to such Dispute (each, a “**Disputing Party**”) may provide written notice thereof to the other Disputing Party, including a detailed description of the subject matter of the Dispute (the “**Dispute Notice**”). Any Disputing Party may seek a preliminary injunction or other provisional judicial remedy if such action is necessary to prevent irreparable harm or preserve the status quo, in which case the Disputing Parties nonetheless will continue to pursue resolution of the Dispute pursuant to this Agreement. Notwithstanding any provision to the contrary contained in this Agreement, in no event shall any Party be entitled to bring a Dispute arising under this Agreement more than four (4) years after such Party knew or reasonably should have known of the facts or circumstances giving rise to the Dispute or, in the case of a Dispute with respect to any invoice, more than two (2) years after the date of the invoice. If information from the Renewable Resource with respect to the basis for charges and credits on an invoice is not available for the entirety of the 4-year or 2-year time periods prescribed in the preceding sentence, the absence of such information shall not be held against Company in a Dispute. For purposes of the immediately preceding sentence, information from the Renewable Resource does not include information from meters used by Company to measure Renewable Energy entering Company’s transmission system.
- 3.6 Informal Dispute Resolution.** To the extent consistent with KRS Chapter 278, the Disputing Parties shall make a good faith effort to resolve the Dispute by prompt negotiations between or among each Disputing Party's representative so designated in writing to the other Disputing Party or Disputing Parties (each, a “**Manager**”) who shall have authority to settle the Dispute. If the Managers are not able to resolve the Dispute within sixty (60) days after the date of the Dispute Notice, then the Parties will be permitted to seek their rights and remedies permitted in law and equity. These provisions shall survive any termination of this Agreement.
- 3.7 Governing Law.** This Agreement shall be governed by the laws of the Commonwealth of Kentucky, including principles of good faith and fair dealing that will apply to all dealings under this Agreement without regard to the conflicts of laws principles of such state. The United States District Court for the Eastern District of Kentucky located in Lexington, Kentucky, or the Carroll County (Kentucky) Circuit Court, shall have exclusive jurisdiction and venue of any legal action arising out of this Agreement, and each Party submits to the exclusive jurisdiction of such Court. Disputes or other matters which are within the exclusive jurisdiction of the Commission under KRS Chapter 278 shall remain subject to adjudication by the Commission in lieu of the aforementioned Courts.

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3.8 Forward Contract. Company and Dow agree that, for the purpose of this Agreement, Company is a forward contract merchant and that this Agreement is a forward contract and commodity contract.

3.9 Notices. A CP Confirmation Notice shall be deemed properly given if sent to the address of such Party set forth below via nationally recognized overnight courier. Any other notice required by this Agreement to be made to a Party may be made in the same manner as a CP Confirmation Notice or by electronic mail to the e-mail address set forth below for the recipient. A Party may change its notice address by written notice to the other Party.

3.9.1 If to Company:
LG&E and KU
One Quality Street
Lexington, KY 40507
Attn: Joseph Howard, Key Account Manager
E-Mail: [REDACTED]

Copy to:
LG&E and KU
c/o Legal Department 11th Floor
220 West Main Street
Louisville, KY 40202

3.9.2 If to Dow:
Dow Silicones Corporation
1254 Enclave Parkway
Houston, TX 77077
Attn: Energy Commercial Manager
E-Mail: [REDACTED]

3.10 Headings. Headings are for convenience only and do not affect this Agreement's interpretation.


3.11 Counterparts. This Agreement may be signed in counterparts, each one of which is considered an original, but all of which constitute one and the same instrument.

Intending to be legally bound hereby, Company and Dow have executed this Renewable Energy Agreement as of the Effective Date.

Company:

Kentucky Utilities Company

By:


Paul W. Thompson

Printed Name

CEO; President

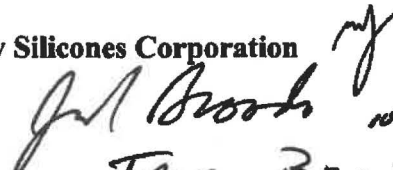
Title

JD

Dow:

Dow Silicones Corporation

By:

 10 JAN 20
JACK BROUDO

Printed Name

President P&E

Title

Exhibit 4

KU Green Tariff – Sheet No. 69

Kentucky Utilities Company

P.S.C. No. 19, First Revision of Original Sheet No. 69
Canceling P.S.C. No. 19, Original Sheet No. 69

Standard Rate Rider

GT
Green Tariff

APPLICABLE

In all territory served.

AVAILABILITY

Option #1: Renewable Energy Certificates (RECs)

Available as a rider to customers receiving service under Company's standard RS, RTOD, GS, PS, TODS, TODP, RTS, or FLS rate schedules as an option to participate in Company's "Green Energy Program" whereby Company will aggregate the resources provided by the participating customers to develop green power, purchase green power, or purchase Renewable Energy Certificates.

Participation in this option may be limited by the ability of the Company to procure RECs from Renewable Resources at a price equal to \$13 or less per REC. If the total of all kWh under contract under this tariff equals or exceeds the Company's ability to economically procure RECs (more than \$13 per REC), the Company may suspend the availability of this tariff to new participants.

Option #2: Business Solar

Available as a rider to customers receiving service under Company's standard GS, PS, TODS, TODP, RTS, or FLS rate schedules. Service under Option #2 requires Company and Customer to enter into a special contract, which must be filed with and approved by the Kentucky Public Service Commission.

Participation in this option will be limited to Customers who wish to have the Company develop, procure, construct, maintain, manage, and own a solar array. The electrical energy produced by the array will be assigned to the Customer.

Option #3: Renewable Power Agreement

Available as a rider to customers to be served under Company's Standard Rate Schedules TODS, TODP, and RTS. Service under the Renewable Power requires Company and Customer to enter into a special contract, which must be filed with and approved by the Kentucky Public Service Commission.

Customers who wish to purchase the electrical output and all associated environmental attributes from a renewable energy generator may contract bilaterally with the Company. In addition this option is limited to:

1. A customer contracting for a minimum monthly billing load of 10 MVA (or MW as is appropriate).
2. Any agreement must be greater than 10 MW nameplate AC, capped at a system cumulative 125 MW name plate AC and for a term that equals the generation purchase agreement for a minimum period of 5 years.
3. Agreement must be for energy delivered to the Company's transmission system.
4. Energy serving this option must be generated from a renewable resource developed on or after the Kentucky Public Service Commission special contract approval date.

DATE OF ISSUE: January 23, 2020

DATE EFFECTIVE: With Service Rendered
On and After March 31, 2020

ISSUED BY: /s/ Robert M. Conroy, Vice President
State Regulation and Rates
Lexington, Kentucky

**Issued by Authority of an Order of the
Public Service Commission in Case No.
2020-00016 dated XXXX**

Exhibit 5

LGE Green Tariff – Sheet No. 69

Louisville Gas and Electric Company

P.S.C. Electric No. 12, First Revision of Original Sheet No. 69

Canceling P.S.C. Electric No. 12, Original Sheet No. 69

Standard Rate Rider

GT

Green Tariff

APPLICABLE

In all territory served.

AVAILABILITY

Option #1: Renewable Energy Certificates (RECs)

Available as a rider to customers receiving service under Company's standard RS, RTOD, GS, PS, TODS, TODP, RTS, or FLS rate schedules as an option to participate in Company's "Green Energy Program" whereby Company will aggregate the resources provided by the participating customers to develop green power, purchase green power, or purchase Renewable Energy Certificates.

Participation in this option may be limited by the ability of the Company to procure RECs from Renewable Resources at a price equal to \$13 or less per REC. If the total of all kWh under contract under this tariff equals or exceeds the Company's ability to economically procure RECs (more than \$13 per REC), the Company may suspend the availability of this tariff to new participants.

Option #2: Business Solar

Available as a rider to customers receiving service under Company's standard GS, PS, TODS, TODP, RTS, or FLS rate schedules. Service under Option #2 requires Company and Customer to enter into a special contract, which must be filed with and approved by the Kentucky Public Service Commission.

Participation in this option will be limited to Customers who wish to have the Company develop, procure, construct, maintain, manage, and own a solar array. The electrical energy produced by the array will be assigned to the Customer.

Option #3: Renewable Power Agreement

Available as a rider to customers to be served under Company's Standard Rate Schedules TODS, TODP, and RTS. Service under the Renewable Power requires Company and Customer to enter into a special contract, which must be filed with and approved by the Kentucky Public Service Commission.

Customers who wish to purchase the electrical output and all associated environmental attributes from a renewable energy generator may contract bilaterally with the Company. In addition this option is limited to:

1. A customer contracting for a minimum monthly billing load of 10 MVA (or MW as is appropriate).
2. Any agreement must be greater than 10 MW nameplate AC, capped at a system cumulative 125 MW name plate AC and for a term that equals the generation purchase agreement for a minimum period of 5 years.
3. Agreement must be for energy delivered to the Company's transmission system.
4. Energy serving this option must be generated from a renewable resource developed on or after the Kentucky Public Service Commission special contract approval date.

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DATE OF ISSUE: January 23, 2020

DATE EFFECTIVE: With Service Rendered
On and After March 31, 2020

ISSUED BY: /s/ Robert M. Conroy, Vice President
State Regulation and Rates
Louisville, Kentucky

**Issued by Authority of an Order of the
Public Service Commission in Case No.
2020-00016 dated XXXX**

Commonwealth of Kentucky
Michael G. Adams, Secretary of State

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

Certificate of Existence

Authentication number: 225106
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Michael G. Adams, Secretary of State of the Commonwealth of Kentucky, do hereby certify that according to the records in the Office of the Secretary of State,

LOUISVILLE GAS AND ELECTRIC COMPANY

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is July 2, 1913 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 7th day of January, 2020, in the 228th year of the Commonwealth.



Michael G. Adams

Michael G. Adams
Secretary of State
Commonwealth of Kentucky
225106/0032196

Commonwealth of Kentucky
Michael G. Adams, Secretary of State

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

Certificate of Existence

Authentication number: 225108
Visit <https://app.sos.ky.gov/ftshow/certvalidate.aspx> to authenticate this certificate.

I, Michael G. Adams, 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 UTILITIES COMPANY

is a corporation duly incorporated and existing under KRS Chapter 14A and KRS Chapter 271B, whose date of incorporation is August 17, 1912 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 7th day of January, 2020, in the 228th year of the Commonwealth.



Michael G. Adams

Michael G. Adams
Secretary of State
Commonwealth of Kentucky
225108/0028494

KENTUCKY UTILITIES COMPANY (807
KAR 5:001, SEC. 18(1)(b))

A DESCRIPTION OF APPLICANT'S PROPERTY, INCLUDING A
STATEMENT OF THE NET ORIGINAL COST OF THE PROPERTY AND
THE COST THEREOF TO APPLICANT

November 30, 2019

The applicant's generating, transmission and distribution systems described herein are calculated annually. As of December 31, 2018, the applicant had ownership in 8 and operated 5 coal fired steam electric generating units having a total capacity of 3,098 Mw; owned and operated a hydroelectric generating station having a total capacity of 32 Mw; had ownership in and operated a solar powered generating station having a total capacity of 5 Mw; and had ownership in 17 and operated 9 gas/oil peaking units having a total capacity of 1,962 Mw.

The applicant's owned electric transmission system included 142 substations (61 of which are shared with the distribution system) with a total capacity of 14 million kVA and 4,067 pole miles of lines. The electric distribution system included 469 substations (61 of which are shared with the transmission system) with a total capacity of 8 million kVA, 14,017 circuit miles of overhead lines, and 2,543 underground cable miles.

KU's service area includes an additional 11 miles of gas transmission pipeline providing gas supply to natural gas combustion turbine electricity generating units.

Other properties include office buildings, service centers, warehouses, garages and other structures and equipment.

The net original cost of the property and cost thereof to the applicant at November 30, 2019, was:

	<u>Utility Plant</u>
Original Cost	
Production Plant	\$ 6,323,707,942
Distribution Plant	2,304,015,091
Transmission Plant	1,127,036,682
General Plant	217,951,609
Intangible Plant	82,735,693
Construction Work in Progress	<u>527,140,025</u>
Total Plant at Original Cost	\$ 10,312,587,043
Less Reserve for Depreciation	<u>3,080,500,266</u> *
Net Original Cost	<u><u>\$ 7,232,086,777</u></u>

* Excludes \$375,365,015 related to cost of removal reserves that is not included in the reserve in the Financial Statements and Additional Information, but instead is included as a regulatory liability

LOUISVILLE GAS AND ELECTRIC COMPANY
(807 KAR 5:001, SEC. 18(1)(b))

A DESCRIPTION OF APPLICANT'S PROPERTY, INCLUDING A
STATEMENT OF THE NET ORIGINAL COST OF THE PROPERTY
AND THE COST THEREOF TO APPLICANT

November 30, 2019

The applicant's generating, transmission and distribution systems described herein are calculated annually. As of December 31, 2018, the applicant had ownership in 8 and operated 6 coal fired steam electric generating units having a total capacity of 2,059 Mw; owned and operated a hydroelectric generating station having a total capacity of 64 Mw; had ownership in a solar powered generating station having a total capacity of 3 Mw; and had ownership in 15 and operated 12 gas/oil peaking units having a total capacity of 794 Mw.

The applicant's owned electric transmission system included 45 substations (31 of which are shared with the distribution system) with a total capacity of 8 million kVA and 669 pole miles of lines. The electric distribution system included 96 substations (31 of which are shared with the transmission system) with a total capacity of 5 million kVA, 3,887 circuit miles of overhead lines, and 2,609 underground cable miles.

LG&E's natural gas transmission system includes 4,369 miles of gas distribution mains and 370 miles of gas transmission mains, consisting of 234 miles of gas transmission pipeline, 116 miles of gas transmission storage lines, 19 miles of gas combustion turbine lines and one mile of gas transmission pipeline in regulator facilities. Five underground natural gas storage fields, with a total working natural gas capacity of approximately 15 Bcf, are used in providing natural gas service to ultimate consumers.

Other properties include office buildings, service centers, warehouses, garages and other structures and equipment.

The net original cost of the property and cost thereof to the applicant at November 30, 2019, was:

	<u>Electric</u>	<u>Gas</u>	<u>Common</u>	<u>Total</u>
Original Cost	\$ 6,185,474,982	\$ 1,373,091,934	\$ 275,529,587	\$ 7,834,096,503
Less Reserve for				
Depreciation	1,638,591,705	281,345,154	117,211,236	2,037,148,095
Net Original Cost	4,546,883,277	1,091,746,780	158,318,351	5,796,948,408
Allocation of				
Common				
To Electric and Gas	109,239,662	49,078,689	(158,318,351)	-
Total	\$ 4,656,122,939	\$ 1,140,825,469	\$ -	\$ 5,796,948,408

* Excludes \$265,683,172 related to cost of removal reserves that is not included in the reserve in the Financial Statements and Additional Information, but instead is included as a regulatory liability.

KENTUCKY UTILITIES COMPANY
FINANCIAL EXHIBIT
(807 KAR 5:001 SEC. 18(2)(a) and SEC. 12)

November 30, 2019

(1) Amount and kinds of stock authorized.

80,000,000 shares of Common Stock, without par value
5,300,000 shares of Cumulative Preferred Stock, without par value -- authorized, but unissued
2,000,000 shares of Preferred Stock, without par value -- authorized, but unissued

(2) Amount and kinds of stock issued and outstanding.

Common Stock:

37,817,878 shares issued and outstanding, without par value, recorded at \$307,818,689.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets otherwise.

None

(4) Brief description of each mortgage on property of applicant, giving date of execution name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of the indebtedness actually secured, together with any sinking fund provisions.

Date of Execution: As of October 1, 2010 (Supplemental Indentures were executed on October 15, 2010, November 1, 2010, November 1, 2013, September 1, 2015, August 1, 2016, August 1, 2018 and March 1, 2019.)

Mortgagor: Kentucky Utilities Company

Trustee: The Bank of New York Mellon

Amount of Authorized Debt: One quintillion dollars

Amount of Debt Secured: \$2,641,852,405

Sinking Fund Provisions: None

Pledged Assets: Substantially all assets of Kentucky Utilities located in Kentucky

- (5) Amount of bonds authorized, and amount issued giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with the amount of interest paid thereon during the last fiscal year.

Secured by first mortgage lien on substantially all assets in Kentucky.

Kentucky Utilities Company

<u>Date of Issue</u>	<u>Date of Maturity</u>	<u>Rate of Interest</u>	<u>Authorized</u>	<u>Outstanding at November 30, 2019</u>	<u>Interest Expense Year Ended November 30, 2019</u>
Pollution Control Bonds					
05/19/00	05/01/23	Variable	\$ 12,900,000	\$ 12,900,000	\$ 202,405
05/23/02	02/01/32	Variable	20,930,000	20,930,000	327,219
05/23/02	02/01/32	Variable	2,400,000	2,400,000	37,522
05/23/02	02/01/32	Variable	7,400,000	7,400,000	118,177
05/23/02	02/01/32	Variable	7,200,000	2,400,000	37,522
08/25/16	09/01/42	1.050%	96,000,000	96,000,000	1,125,333
10/20/04	10/01/34	Variable	50,000,000	50,000,000	846,330
02/23/07	10/01/34	Variable	54,000,000	54,000,000	840,269
09/15/18	02/01/26	3.375%	17,875,000	17,875,000	603,281
10/17/08	02/01/32	Variable	<u>77,947,405</u>	<u>77,947,405</u>	<u>1,215,521</u>
			<u>\$ 346,652,405</u>	<u>\$ 341,852,405</u>	<u>\$ 5,353,579</u>
First Mortgage Bonds					
11/16/10	11/01/20	3.250%	500,000,000	500,000,000	16,250,000
09/28/15	10/01/25	3.300%	250,000,000	250,000,000	9,655,380
11/16/10	11/01/40	5.125%	750,000,000	750,000,000	38,437,500
11/14/13	11/15/43	4.650%	250,000,000	250,000,000	10,196,694
09/28/15	10/01/45	4.375%	<u>550,000,000</u>	<u>550,000,000</u>	<u>20,673,556</u>
			<u>\$ 2,300,000,000</u>	<u>\$ 2,300,000,000</u>	<u>\$ 95,213,130</u>

Each note outstanding, giving date of issue, amount, date of maturity, rate of interest in whose favor, together with amount of interest paid thereon during the last 12-month period.

Date of Issue	Date of Maturity	Rate of Interest	Principal Amount		Interest Expense
			Authorized	Outstanding at November 30, 2019	Year Ended November 30, 2019
Various	Various	1.98%	\$ 350,000,000	\$ 38,986,004	\$ 2,175,663

- (7) Other indebtedness, giving same by classes and describing security, if any with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

None, other than current and accrued liabilities.

- (8) Rate and amount of dividends paid during the five previous fiscal years, and amount of capital stock on which dividends were paid.

Dividends on Common Stock, without par value (not based on rate per share)

2014	\$148,000,000
2015	\$153,000,000
2016	\$248,000,000
2017	\$226,000,000
2018	\$246,000,000

The amount of total proprietary capital on which dividends were paid as of Dec. 31st

2014	\$2,599,430,441
2015	\$2,679,352,744
2016	\$2,716,574,965
2017	\$2,749,496,925
2018	\$2,835,126,676

- (9) Detailed Income Statement, Balance Sheet and Statement of Retained Earnings

Monthly Financial and Operating Reports are filed each month with the Kentucky Public Service Commission. Attached are detailed Statements of Income, Balance Sheets and Retained Earnings for the Company for the period ending November 30, 2019.

¹ KU maintains a syndicated revolving credit facility of \$400 million. Although there isn't any outstanding balance on the revolver, KU has executed notes under the multiyear revolving credit program.

Kentucky Utilities Company
Statement of Income
November 30, 2019

	Year Ended November 30, 2019
Electric Operating Revenues.....	1,743,960,542.00
Total Operating Revenues.....	<u>1,743,960,542.00</u>
Fuel for Electric Generation.....	427,957,090.42
Power Purchased.....	46,128,089.63
Other Operation Expenses.....	279,988,182.35
Maintenance.....	137,331,349.27
Depreciation.....	284,662,589.90
Amortization Expense.....	17,419,826.10
Regulatory Debits.....	9,116,400.07
Taxes	
Federal Income.....	23,488,978.26
State Income.....	3,927,765.04
Deferred Federal Income - Net.....	42,410,371.97
Deferred State Income - Net.....	14,633,637.36
Property and Other.....	44,851,982.80
Loss (Gain) from Disposition of Allowances.....	<u>(99,728.50)</u>
Total Operating Expenses.....	<u>1,331,816,534.67</u>
Net Operating Income.....	412,144,007.33
Other Income Less Deductions	
Amortization of Investment Tax Credit.....	2,003,707.00
Other Income Less Deductions.....	(2,812,781.58)
AFUDC - Equity.....	<u>526,350.66</u>
Total Other Income Less Deductions.....	<u>(282,723.92)</u>
Income Before Interest Charges.....	<u>411,861,283.41</u>
Interest on Long-Term Debt.....	100,566,708.40
Amortization of Debt Expense - Net.....	3,511,066.55
Other Interest Expenses.....	5,000,989.32
AFUDC - Borrowed Funds.....	<u>(351,393.68)</u>
Total Interest Charges.....	<u>108,727,370.59</u>
Net Income.....	<u>\$ 303,133,912.82</u>

Kentucky Utilities Company
Balance Sheets as of November 30, 2019

Assets		Liabilities and Proprietary Capital	
Utility Plant		Proprietary Capital	
Utility Plant at Original Cost.....	\$ 10,340,050,875.37	Common Stock.....	\$ 308,139,977.56
Less: Reserves for Depreciation and Amortization.....	<u>3,455,658,182.12</u>	Less: Common Stock Expense.....	321,288.87
Total.....	<u>6,884,392,693.25</u>	Paid-In Capital.....	696,858,083.00
		Other Comprehensive Income.....	0.01
		Retained Earnings.....	<u>2,005,413,308.85</u>
		Total Proprietary Capital.....	<u>3,010,090,080.55</u>
Investments		Other Long-Term Debt.....	<u>2,639,712,686.20</u>
Ohio Valley Electric Company.....	250,000.00	Total Long-Term Debt.....	<u>2,639,712,686.20</u>
Nonutility Property-Less Reserve.....	657,564.21	Total Capitalization.....	<u>5,649,802,766.75</u>
Special Fund.....	<u>1,450,315.00</u>		
Total.....	<u>2,357,879.21</u>	Current and Accrued Liabilities	
Current and Accrued Assets		Notes Payable.....	38,996,506.12
Cash.....	9,564,526.33	Accounts Payable.....	128,934,833.47
Temporary Cash Investments.....	546,260.35	Accounts Payable to Associated Companies.....	46,679,351.97
Accounts Receivable-Less Reserve.....	234,594,172.34	Customer Deposits.....	31,380,757.86
Accounts Receivable from Associated Companies.....	779,739.20	Taxes Accrued.....	47,508,175.11
Materials and Supplies-At Average Cost		Interest Accrued.....	12,001,579.08
Fuel.....	61,331,487.00	Miscellaneous Current and Accrued Liabilities.....	<u>30,925,547.74</u>
Plant Materials and Operating Supplies.....	61,238,409.43	Total.....	<u>336,426,751.35</u>
Stores Expense.....	4,247,659.23		
Emission Allowances.....	125,727.45	Deferred Credits and Other	
Prepayments.....	<u>17,964,706.79</u>	Accumulated Deferred Income Taxes.....	1,115,671,762.61
Total.....	<u>390,392,688.12</u>	Investment Tax Credit.....	89,806,485.57
Deferred Debits and Other		Regulatory Liabilities.....	749,518,101.48
Unamortized Debt Expense.....	18,185,370.09	Customer Advances for Construction.....	1,109,570.46
Unamortized Loss on Bonds.....	9,349,038.83	Asset Retirement Obligations.....	146,024,908.01
Accumulated Deferred Income Taxes.....	321,158,493.92	Other Deferred Credits.....	521,408.93
Deferred Regulatory Assets.....	447,469,421.10	Miscellaneous Long-Term Liabilities.....	25,322,482.77
Other Deferred Debits.....	<u>64,313,333.12</u>	Accum Provision for Pension & Postretirement Benefits.....	<u>23,414,679.71</u>
Total.....	<u>860,475,657.06</u>	Total.....	<u>2,151,389,399.54</u>
Total Assets	<u>\$ 8,137,618,917.64</u>	Total Liabilities and Stockholders Equity	<u>\$ 8,137,618,917.64</u>

Kentucky Utilities Company
Analysis of Retained Earnings
November 30, 2019

Retained Earnings and Undistributed Earnings	<u>Year Ended</u> <u>November 30, 2019</u>
Balance at Beginning of Period.....	\$ 1,919,279,396.03
Add:	
Net Income for Period.....	303,133,912.82
Deduct:	
Common Dividends	
Common Stock Without Par Value.....	217,000,000.00
Adjust for Equity in Subsidiary	
Earnings for Year	
EEI Inc.....	-
Balance at End of Period.....	<u>\$ 2,005,413,308.85</u>

LOUISVILLE GAS AND ELECTRIC COMPANY

FINANCIAL EXHIBIT
(807 KAR 5:001 SEC. 18(2)(a) and SEC. 12)

November 30, 2019

(1) Amount and kinds of stock authorized.

75,000,000 shares of Common Stock, without par value
6,750,000 shares of Cumulative Preferred Stock, without par value -- authorized, but unissued
1,720,000 shares of Preferred Stock, \$25 par value -- authorized, but unissued

(2) Amount and kinds of stock issued and outstanding.

Common Stock:

21,294,223 shares issued and outstanding, without par value, recorded at \$424,334,535.

(3) Terms of preference of preferred stock whether cumulative or participating, or on dividends or assets otherwise.

None

(4) Brief description of each mortgage on property of applicant, giving date of execution name of mortgagor, name of mortgagee, or trustee, amount of indebtedness authorized to be secured thereby, and the amount of the indebtedness actually secured, together with any sinking fund provisions.

Date of Execution: As of October 1, 2010 (Supplemental Indentures were executed on October 15, 2010, November 1, 2010, November 1, 2013, September 1, 2015, September 1, 2016, and May 15, 2017, and March 1, 2019.)

Mortgagor: Louisville Gas and Electric

Trustee: The Bank of New York Mellon

Amount of Authorized Debt: One quintillion dollars

Amount of Debt Secured: \$2,024,200,000

Sinking Fund Provisions: None

Pledged Assets: Substantially all assets of Louisville Gas & Electric located in Kentucky

- (5) Amount of bonds authorized, and amount issued giving the name of the public utility which issued the same, describing each class separately, and giving date of issue, face value, rate of interest, date of maturity and how secured, together with the amount of interest paid thereon during the last fiscal year.

Secured by first mortgage lien on substantially all assets in Kentucky.

Louisville Gas and Electric

<u>Date of Issue</u>	<u>Date of Maturity</u>	<u>Rate of Interest</u>	<u>Authorized</u>	<u>Outstanding at November 30, 2019</u>	<u>Interest Expense Year Ended November 30, 2019</u>
Pollution Control Bonds					
09/15/16	09/01/44	Variable	\$ 125,000,000	\$ 125,000,000	\$ 1,997,661
03/06/02	09/01/26	Variable	22,500,000	22,500,000	388,054
03/06/02	09/01/26	1.05%	27,500,000	27,500,000	632,500
03/22/02	11/01/27	1.35%	35,000,000	35,000,000	892,500
03/22/02	11/01/27	1.35%	35,000,000	35,000,000	892,500
11/20/03	10/01/33	1.50%	128,000,000	128,000,000	2,218,667
04/13/05	02/01/35	2.20%	40,000,000	40,000,000	817,251
04/26/07	06/01/33	3.75%	60,000,000	60,000,000	2,249,950
04/26/07	06/01/33	1.25%	35,200,000	35,200,000	448,811
04/26/07	06/01/33	1.25%	31,000,000	31,000,000	509,618
Interest Rate Swaps					
			<u>\$ 539,200,000</u>	<u>\$ 539,200,000</u>	<u>\$ 16,251,664</u>

First Mortgage Bonds

09/28/15	10/01/25	3.300%	\$ 300,000,000	\$ 300,000,000	11,305,380
11/16/10	11/15/40	5.125%	285,000,000	285,000,000	14,606,250
11/14/13	11/15/43	4.650%	250,000,000	250,000,000	10,196,667
09/28/15	10/01/45	4.375%	250,000,000	250,000,000	11,923,556
04/01/2019	04/01/49	4.250%	400,000,000	400,000,000	11,333,333.
			<u>\$ 1,485,000,000</u>	<u>\$ 1,485,000,000</u>	<u>\$ 59,365,186</u>

- (6) Each note outstanding, giving date of issue, amount, date of maturity, rate of interest in whose favor, together with amount of interest paid thereon during the last 12-month period.

Date of Issue	Date of Maturity	Rate of Interest	Principal Amount		Interest Expense
			Authorized	Outstanding at November 30, 2019	Year Ended November 30, 2019
Various	Various	1.98%	\$ 350,000,000	\$ 147,085,579	\$ 3,447,687

- (7) Other indebtedness, giving same by classes and describing security, if any with a brief statement of the devolution or assumption of any portion of such indebtedness upon or by person or corporation if the original liability has been transferred, together with amount of interest paid thereon during the last fiscal year.

Date of Issue	Date of Maturity	Rate of Interest	Principal Amount		Interest Expense
			Authorized	Outstanding at November 30, 2019	Year Ended November 30, 2019
10/26/2017	3/31/2019	2.48%	\$ 100,000,000	\$ -	\$ 2,514,278
1/11/2018	4/2/2019	2.42%	\$ 100,000,000	\$ -	\$ 2,456,944

- (8) Rate and amount of dividends paid during the five previous fiscal years, and amount of capital stock on which dividends were paid.

Dividends on Common Stock, without par value (not based on rate per share)

2014	\$112,000,000
2015	\$119,000,000
2016	\$128,000,000
2017	\$192,000,000
2018	\$156,000,000

The amount of total proprietary capital on which dividends were paid as of Dec. 31st

2014	\$1,783,850,924
2015	\$1,940,270,497
2016	\$2,086,499,985
2017	\$2,138,595,752
2018	\$2,298,010,005

- (9) Detailed Income Statement, Balance Sheet and Statement of Retained Earnings

Monthly Financial and Operating Reports are filed each month with the Kentucky Public Service Commission. Attached are detailed Statements of Income, Balance Sheets and Retained Earnings for the Company for the period ending November 30, 2019.

Louisville Gas and Electric Company
Statement of Income
November 30, 2019

	Year Ended November 30, 2019
Electric Operating Revenues.....	\$ 1,179,633,150.60
Gas Operating Revenues.....	327,460,299.80
	<hr/>
Total Operating Revenues.....	1,507,093,450.40
	<hr/>
Fuel for Electric Generation.....	298,875,287.44
Power Purchased.....	46,860,994.38
Gas Supply Expenses.....	122,098,761.53
Other Operation Expenses.....	256,019,348.55
Maintenance.....	108,767,122.05
Depreciation.....	208,521,046.73
Amortization Expense.....	16,446,352.89
Regulatory Debits.....	1,079,982.47
Taxes	
Federal Income.....	7,393,664.09
State Income.....	2,197,305.68
Deferred Federal Income - Net.....	47,238,736.90
Deferred State Income - Net.....	12,684,251.30
Property and Other.....	46,990,532.82
Amortization of Investment Tax Credit.....	(936,265.00)
Loss (Gain) from Disposition of Utility Plant.....	-
Loss (Gain) from Disposition of Allowances.....	(63,772.99)
	<hr/>
Total Operating Expenses.....	1,174,173,348.84
	<hr/>
Net Operating Income.....	332,920,101.56
Other Income Less Deductions.....	(6,525,470.01)
	<hr/>
Income Before Interest Charges.....	326,394,631.55
	<hr/>
Interest on Long-Term Debt.....	77,645,139.82
Amortization of Debt Expense - Net.....	3,373,907.99
Other Interest Expenses.....	5,331,601.95
	<hr/>
Total Interest Charges.....	86,350,649.76
	<hr/>
Net Income.....	\$ 240,043,981.79

Louisville Gas and Electric Company
Balance Sheets as of November 30, 2019

Assets		Liabilities and Proprietary Capital	
Utility Plant		Proprietary Capital	
Utility Plant at Original Cost.....	\$ 7,854,890,758.47	Common Stock.....	\$ 425,170,424.09
Less: Reserves for Depreciation and Amortization.....	<u>2,295,277,436.72</u>	Less: Common Stock Expense.....	835,888.64
Total.....	<u>5,559,613,321.75</u>	Paid-In Capital.....	626,081,499.00
		Retained Earnings.....	<u>1,358,139,382.80</u>
		Total Proprietary Capital.....	<u>2,408,555,417.25</u>
Inv Ohio Valley Electric Corporation.....	594,286.00	Other Long-Term Debt.....	<u>2,019,881,038.74</u>
Nonutility Property - Less Reserve.....	616,214.14	Total Long-Term Debt.....	<u>2,019,881,038.74</u>
Special Funds.....	<u>6,026,909.00</u>	Total Capitalization.....	<u>4,428,436,455.99</u>
Total.....	<u>7,237,409.14</u>		
		Notes Payable.....	147,300,175.78
Cash.....	9,259,633.32	Accounts Payable.....	192,452,565.07
Cu Temporary Cash Investments.....	62,010.67	Accounts Payable to Associated Companies.....	22,229,311.39
Accounts Receivable - Less Reserve.....	211,844,101.41	Cu Customer Deposits.....	30,901,866.76
Accounts Receivable from Associated Companies.....	22,306,365.93	Taxes Accrued.....	44,803,054.49
Materials and Supplies - At Average Cost		Interest Accrued.....	10,890,064.42
Fuel.....	45,152,223.00	Miscellaneous Current and Accrued Liabilities.....	<u>50,797,914.25</u>
Plant Materials and Operating Supplies.....	42,324,368.81	Total.....	<u>499,374,952.16</u>
Stores Expense.....	2,048,708.43	Accumulated Deferred Income Taxes.....	949,229,369.99
Gas Stored Underground.....	39,412,165.49	Investment Tax Credit.....	33,415,007.65
Emission Allowances.....	140.01	Regulatory Liabilities.....	597,427,010.48
Prepayments.....	<u>17,008,058.09</u>	Customer Advances for Construction.....	8,083,759.98
Total.....	<u>389,417,775.16</u>	Asset Retirement Obligations.....	82,847,461.76
		Other Deferred Credits.....	502,216.67
Unamortized Debt Expense.....	17,394,213.03	De Miscellaneous Long-Term Liabilities.....	19,002,063.55
Unamortized Loss on Bonds.....	13,604,378.21	Accum Provision for Pension & Postretirement Benefits.....	<u>73,707,048.60</u>
Accumulated Deferred Income Taxes.....	266,224,263.83	Total.....	<u>1,764,213,938.68</u>
Deferred Regulatory Assets.....	423,160,329.58	Total Liabilities and Stockholders' Equity.....	<u>\$ 6,692,025,346.83</u>
Other Deferred Debits.....	<u>15,373,656.13</u>		
De Total.....	<u>735,756,840.78</u>		
Total Assets.....	<u>\$ 6,692,025,346.83</u>		

Louisville Gas and Electric Company
Analysis of Retained Earnings
November 30, 2019

	Year Ended November 30, 2019
Balance at Beginning of Period.....	\$ 1,291,095,401.01
Add:	
Net Income for Period.....	240,043,981.79
Deduct:	
Adjustment to Retained Earnings.....	-
Common Dividends	
Common Stock Without Par Value.....	173,000,000.00
Balance at End of Period.....	\$ 1,358,139,382.80