COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

Electronic Investigation Of The Service, Rates And Facilities Of Kentucky Power Company	))	Case No. 2021-00370

Kentucky Power Company's Update Of West Virginia Proceedings
For The Period August 1, 2022-August 10, 2022

*****

Kentucky Power Company provides the following update in conformity with the Orders of the Public Service of Commission of Kentucky:

On August 5, 2022 Wheeling Power Company filed its response to the WVPSC's July 1, 2022 Order and July 8, 2022 motion for extension. A copy of this is attached as **Exhibit 1**.

Subsequent updates will be filed at ten-day intervals or more frequently as circumstances require.

Respectfully submitted,

Mark R. Overstreet
Katie M. Glass
STITES & HARBISON PLLC
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COUNSEL FOR
KENTUCKY POWER COMPANY

Exhibit 1

APPALACHIAN POWER
An AEP Company
BOUNDLESS ENERGY

Keith D. Fisher
Senior Counsel

500 Lee Street East, Suite 800
Charleston, WV 25301
304.348.4154
kdfisher@aep.com

August 5, 2022

Via Hand Delivery
Karen Buckley
Acting Executive Secretary
Public Service Commission of West Virginia
201 Brooks St.
Charleston, WV 25301

Re: Case No. 21-0810-E-PC
Appalachian Power Company and Wheeling Power Company
Petition for Commission Consent and Approval to Enter into Ownership and Operating Agreements for the Mitchell Plant

Dear Ms. Buckley:

On behalf of Appalachian Power Company and Wheeling Power Company (together, the "Companies"), and pursuant to the Commission's July 1, 2022 Order and the Companies' Motion for Extension of Deadline filed July 8, 2022 in the above-referenced matter, please find enclosed for filing the redacted public version of certain documents previously produced in discovery in this matter. As indicated in the Companies' Motion, these documents are extremely voluminous at approximately 2,600 pages. Therefore, in accordance with Commission Rule 150-1-4.1.7, the Companies are providing one hard copy of the documents and one Compact Disc containing PDF files of the documents.

Thank you for your attention to this matter. Should you have any questions regarding this correspondence, please do not hesitate to contact me.

Sincerely,

Keith D. Fisher (WV State Bar #11346)
Counsel for Appalachian Power Company and Wheeling Power Company

Enclosure
cc: Certificate of Service

CASE NO. 21-0810-E-PC
APPALACHIAN POWER COMPANY AND WHEELING POWER COMPANY

INDEX OF PDF FILES
INCLUDED WITH COMPANIES' FILING
MADE AUGUST 5, 2022

Redacted Redline - 1. Sellers Disclosure Letter [AEP 8-6-2021] and 2. Sellers Disclosure Letter [Liberty 9-20-21].pdf(2796600.1)
Redacted Redline - 2. Sellers Disclosure Letter [Liberty 9-20-21] and 3. Sellers Disclosure Letter [Liberty 9-30-21](2796601.1)
Redacted Redline - 3. Sellers Disclosure Letter [Liberty 9-30-21] and 4. Sellers Disclosure Letter [AEP 10-8-2021](2796602.1)
Redacted Redline - 4. Sellers Disclosure Letter _AEP 10-8-2021_ and 5. Sellers Disclosure Letter _Liberty 10-21-2021__Redacted V2(2798813.1)
Redacted Redline - 5. Sellers Disclosure Letter [Liberty 10-21-2021] and 6. Sellers Disclosure Letter [AEP 10-25-2021](2797263.1)
Redacted Redline - 6. Sellers Disclosure Letter _AEP 10-25-2021_ and 7. Sellers Disclosure Letter _Liberty 10-26-2021__Redacted V2(2798833.1)
Redacted Redline - 7. Sellers Disclosure Letter _Liberty 10-26-2021_ and 8. Sellers Disclosure Letter _AEP 10-26-2021_ (1)_Redacted V2(2798845.1)
Redacted Redline - 8. Sellers Disclosure Letter _AEP 10-26-2021_ and 9. Sellers Disclosure Letter _Liberty 10-26-2021__Redacted V2(2798848.1)
Redacted Redline - 9. Sellers Disclosure Letter _Liberty 10-26-2021_ and 10. Sellers Disclosure Letter _Execution Version_ _Redacted V2(2798853.1)

Redline - 1. OM Agreement [AEP Draft 08-06-2021] and 2. OM Agreement [AEP Draft 9-17-2021]
Redline - 2. OM Agreement [AEP Draft 9-17-2021] and 3. OM Agreement [Liberty Draft 9-30-2021]
Redline - 3. OM Agreement [Liberty Draft 9-30-2021] and 4. OM Agreement [AEP Draft 10-8-2021]
Redline - 4. OM Agreement [AEP Draft 10-8-2021] and 5. OM Agreement [Liberty Draft 10-16-2021]
Redline - 5. OM Agreement [Liberty Draft 10-16-2021] and 6. OM Agreement [AEP Draft 10-21-2021]
Redline - 6. OM Agreement [AEP Draft 10-21-2021] and 7. OM Agreement [Liberty Draft 10-22-2021]
Redline - 7. OM Agreement [Liberty Draft 10-22-2021] and 8. OM Agreement [AEP Draft 10-25-2021]
Redline - 8. OM Agreement [AEP Draft 10-25-2021] and 9. OM Agreement [Liberty Draft 10-25-2021]
Redline - 9. OM Agreement [Liberty Draft 10-25-2021] and 10. OM Agreement [AEP Draft 10-25-2021]
Redline - 10. OM Agreement [AEP Draft 10-25-2021] and 11. OM Agreement [Execution Version] [10-26-2021]

Redline - 1. Ownership Agreement [AEP Draft 8-6-2021] and 2. Ownership Agreement [AEP Draft 9-17-2021]
Redline - 2. Ownership Agreement [AEP Draft 9-17-2021] and 3. Ownership Agreement [Liberty Draft 9-30-2021]_Redacted
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Redline - 4. SPA [Liberty Draft 9-30-2021] and 5. SPA [AEP Draft 10-6-2021]_Redacted
Redline - 5. SPA [AEP Draft 10-6-2021] and 6. SPA [Liberty Draft 10-16-2021]_Redacted
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CAD 1-4 Attachment_Redacted.pdf

PUBLIC SERVICE COMMISSION
OF WEST VIRGINIA
CHARLESTON

CASE NO. 21-0810-E-PC

APPALACHIAN POWER COMPANY and
WHEELING POWER COMPANY,
public utilities.

Petition for Commission Consent and Approval
to Enter into Ownership and Operating Agreements
for the Mitchell Plant

CERTIFICATE OF SERVICE

I, Keith D. Fisher, counsel for Appalachian Power Company and Wheeling Power Company, do hereby certify that a true and correct copy of the foregoing filing was served upon the following, via electronic mail, on this 5th day of August, 2022:

Lucas R. Head, Esq. Public Service Commission of West Virginia 201 Brooks Street Charleston, WV 25301 *Counsel for Staff of WV Public Service Commission*	Robert F. Williams, Esq. Heather B. Osborn, Esq. John Auville, Esq. Consumer Advocate Division 300 Capitol Street, Suite 810 Charleston, WV 25301 *Counsel for Consumer Advocate Division*
Susan J. Riggs, Esq. Spilman Thomas & Battle, PLLC 300 Kanawha Blvd E Charleston, WV 25301 *Counsel for WVEUG*	Derrick P. Williamson, Esq. Barry A. Naum, Esq. Spilman Thomas & Battle, PLLC 1100 Bent Creek Blvd, Suite 101 Mechanicsburg, PA 17050 *Counsel for WVEUG*
Emmett Pepper, Esq. Pepper & Nason 8 Hale Street Charleston, WV 25301 *Counsel for CAG, SUN, and EEWV*	H. Brann Altmeyer, Esq. Jacob C. Altmeyer, Esq. Phillips, Gardill, Kaiser & Altmeyer, PLLC 61 Fourteenth Street Wheeling, WV 26003 *Counsel for WV Coal Association, Inc.*
Shannon Fisk, Esq. Earthjustice 48 Wall St., 15th Floor New York, NY 10005 *Counsel for CAG, SUN, and EEWV*	Raghava Murthy, Esq. Earthjustice 48 Wall St., 15th Floor New York, NY 10005 *Counsel for CAG, SUN, and EEWV*

Keith D. Fisher (WV State Bar #11346)

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to [PURCHASER], a [●] ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of [●], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations[1]
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - The Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[~~1~~2]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, and Ohio Power Company)[~~2~~3]
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - [Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)][~~3~~4]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power

[1] **Note to AEP**: To discuss impact on the Business of not obtaining any of these approvals that are not Required Regulatory Approvals.

[~~1~~2] Note to Draft: This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

[~~2~~3] Note to Draft: This agreement has expired by its terms and a corresponding FERC filing is required.

[~~3~~4] Note to Draft: See footnote 1.

Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- [PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC]
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The entry into of the following agreements and/or applications:[5]

  - The Mitchell Plant O&M Agreement
  - The Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - Transmission Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company[6]

[5] **Note to AEP:** To discuss inclusion of more specific filing timelines for certain of these documents.
[6] **Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role.

        - Distribution Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company and (ii) Kentucky Power and Appalachian Power Company
        - Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

    - The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

        - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
        - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
        - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Post-Closing notice to FERC regarding:

    - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
    - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
    - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
    - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

specify who will serve in each role.

- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and AEP Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- [Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power][7]

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit # R33-3948-2017-4 within 30 days of Closing

- [The permits in the table below are being reviewed for notice/approval requirements in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company – that review is ongoing]

[7] **Note to AEP:** This also appears on the required regulatory approvals.

Environmental Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.1.4		Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5		Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6		Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7		Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3		NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4		NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554- 943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1		Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.2		Maintenance Dredging Permit	200300265	08/18/03	USACE
2.7.2.7.3		Barge Mooring & Fleeting	200501038	07/28/05	USACE
2.7.2.7.4		Intake Structure		04/09/68	USACE
2.7.2.7.5		Coal Unloading Dock Extension	76032l	10/13/78	USACE
2.7.2.7.7		404 Permit Landfill Expansion	2011-1499	12/05/16	USACE
2.7.2.7.8		Barge Mooring Facility	200501351	11/17/05	USACE
2.7.2.7.9		404 NW Permit (ML DFA)	2011-940	01/20/12	USACE
2.7.2.7.10		Maintenance Dredging Permit	2003-265	01/31/14	USACE
2.7.2.7.11		Individual 404 Permit (LF/HR)	2011-1499	03/04/13	USACE
2.7.2.7.12		Plant Construction		05/16/69	USACE
2.7.2.7.13		Coal Unloading Dock	4600	02/08/71	USACE
2.7.2.7.14		401 Water Quality Certification	WQC160006	03/30/17	WVDEP
2.7.2.7.6		DNR Right of Entry Permit	R-124/25-1247	11/02/12	WVDNR
		DNR Right of Entry Permit	L-054/25-1613	01/23/06	WVDNR

Other Permits

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
		CAIR Permit			WVDEP
		CAIR Certificate of Representation			USEPA
		Landfill			WVDEP
		EPCRA / LEPC			LEPC
.9		Coal Unloading Dock Extension	76032	10/13/78	USACE
		General NPDES Construction (ML DFA)	WVOI 15924	12/22/11	WVDEP

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
		General NPDES Construction (ML HR)	WV0115924	05/11/12	WVDEP
		General NPDES Construction (ML LF Subsurface)	WV0115924	08/25/11	WVDEP
		General NPDES Construction (ML LF/HR)	WVO 115924	09/24/12	WVDEP
		Individual WV/NPDES Permit (ML LF)	WVO 116742		WVDEP
.37		Intake Structure		04/09/68	USACE
		Barge Facility Operating Plan	R13-2608		USACE
		SWPPP (Plant)			WVDEP
		SWPPP's associated with Construction			WVDEP
		SPCC Plan			USEPA
		Facility Response Plan			USEPA
		Groundwater Protection Plan			WVDEP
.1		Weight Test Cover Sheet			
.3	AEP	HSB Boiler Inspection Report		08/28/20	Htfd Steam Boiler
.6		Steam boiler Inspection		9/9/19	WV DOL
.7	OPCo Horizon Telcom	Fiber Optic Permit		3/20/12	WV DOT
.8	Kentucky Power	Materials License Californium-252	47-31210-01	11/10/16	US NRC
.10	Kentucky Power	W.M.Robinson USCG Boat Documentation		10/26/20 (expires 11/30/21)	USCG
.11	OPCo	Sewage Tank Permit	SHT-99-13-017	05/21/13	WV PH-EHS
.12	Boral Resources	Scale Calibration		03/4/21	
.13		Drinking Water NoV			
.14	APCo	W.M. Robinson Radio License	FRN 0002073484		FCC
.16	Kentucky Power	Sewage Tank Permit	SHT-99-17-007	03/03/17	WV PH-EHS
.17	AEP	General License	GL-700076-26	11-19-20	US NRC
.18	AEP	Kammer Power NoV	GW-25-034-TJA	4-10-19	WV DEP
.19	Franklin Real	Sewage Tank Permit	STS-25-13-22	09/05/12	WV PH-EHS

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
	Estate				
.20	AEP	Caretaker Status	FIN# PITMS402	10/19/12	USCG
.21	AEP	Public Notice – Barge Expansion	2005-1038	06/14/13	USACE
.22	Various	NPDES Permit Exceptions/NoV		Various	
.24	Indeterminable	Various Software Licenses		Indeterminable	
.25	Indeterminable	Radiation Source List			Indeterminable
.28	Kentucky Power	Mitchell Station NoV	NOV W18-25-032-TJA	11-28-18	WV DEP
.29	OPCo	Bridge Agreement		1-30-2006	WV DOT
.30	Indeterminable	Tritium Inventory			Indeterminable
.31		Steam boiler Inspection		8/29/19	WV DOL
.32		Steam boiler Inspection		6/11/20	WV DOL
.33		W.M.Robinson Cert. of Inspection		3/19/20	USCG
.34	Kentucky Power Company/Wheeling Power Company	Waterfront Facility Operations Guide		11/17/05 as revised	USACE
.35	AEP	Right of Way	06-2013-0545	11/21/13	WV DOT
.36	AEP	Radiation Machine Registration	261600	02/25/24	WV HHR PH
.41 & .42	AEP	Scale Calibration		12/08/20	
.43		RR Crossing Permits			CSX
.44	AEP	Route 2 Utility Crossing Encroachment Permit Report	V-54658-19-00073	06/28/13	
.45	AEP	Route 2 Overhead Structure Encroachment Permit Report	V-54658-19-00073		

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)[8]

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power Company and Consolidation Coal Company, dated as of July 2, 2015[9]

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch
    - [Any new debt arrangements entered into as described in section (v) of Section 4.1(a) of the Sellers Disclosure Letter][10]

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined ~~therein~~thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC[11]

[8] **Note to AEP**: To discuss impact on the Business of not obtaining these approvals.
[9] **Note to AEP**: To discuss whether failure to provide such notice would result in a breach of the agreement.
[10] **Note to AEP**: To discuss/confirm. Is this just intended to refer to interim bridge financing under the Utility Money Pool?
[11] **Note to AEP**: Please provide or indicate VDR location.

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

  - [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

[12] **Note to AEP**: Discuss.

Section 2.5(a)
Financial Statements

See Attached

[Clean copies of the following to be attached]

Kentucky Power

December 31, 2019 and December 31, 2020
VDR 2.3.1 (2020 Audited Financial Statements KPC) (this document includes 2019 and 2020)

[*June 30, 2021*]
VDR 2.3.22 (KPCo 2021 2Q)

Kentucky TransCo

December 31, 2019 and December 31, 2020
VDR 2.3.21 (2020 FF1 AEP Kentucky Transmission Company.PDF) (this document includes 2019 and 2020)

[*June 30, 2021*]
[To be uploaded]

Section 2.5(c)
Liabilities

None.

Section 2.7
Sufficiency of Assets

~~The Acquired Companies will cease using Seller Intellectual Property in accordance with the Agreement.~~[13]

[Sellers are analyzing if any real property used in the business of the Acquired Companies is held in the name of either of the Franklin real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate, prior to the Closing.][14]

[13] **Note to AEP**: Any Seller IP that is used by the Business but that will not either transfer or be subject to ongoing rights for Buyer (i.e., pursuant to a perpetual license or covenant not to sue) needs to be identified with specificity. To discuss impact and materiality that ceasing to use Seller IP will have on Business.

[14] **Note to AEP:** Please advise on outcome of review.

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

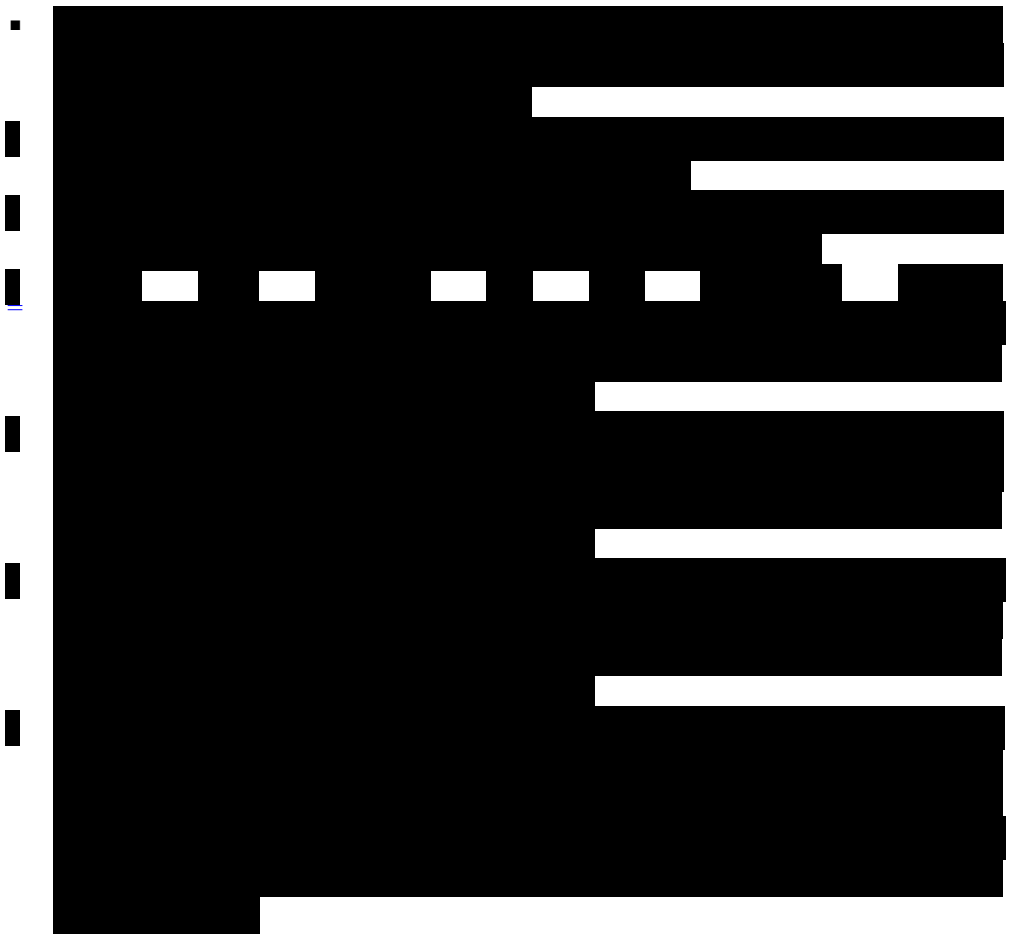
- The Shared Contracts set forth on the attached.
  [Clean copies of the following to be attached]
  Document at VDR 2.5.3.2[15]

- The Contracts listed under Section 2.8(a)(iii) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Fuel and Transportation Contracts**

  - Coal (Mitchell Plant)



  - Coal Transportation (Mitchell Plant)

[15] **Note to AEP**: Please provide the contracts listed in the document at VDR 2.5.3.2.

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)[16]

  - FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
  - Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)[417]

- **Consumables and Consumables Transportation**

[16] **Note to AEP**: Please provide the four agreements or indicate VDR location.
[417] Note to Draft: Disclosure subject to confidentiality limitations.

- Urea (Mitchell Plant)

  - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.[5][18]

- Urea Terminal and Transportation (Mitchell Plant)

  - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power[19]
  - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended[6][20]

- Lime (Mitchell Plant)

  - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company, and AEP Consumable Purchase Order General Terms and Conditions dated 1/1/2015 (delivered by truck)[7][21]

  - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)[8][22]

- Limestone (Mitchell Plant)

  - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between Kentucky Power and Hilltop Big Bend Quarry, LLC.[23]

  - Agreement No. 07-00-06-LS0 dated March 3, 2006 between Kentucky Power and O-N Minerals (Michigan) Company, nka O-N Minerals dba Carmeuse Lime and Stone, as amended (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation above)[9][24]

- Trona (Mitchell Plant)

[5][18] Note to Draft: Disclosure subject to confidentiality limitations.
[19] **Note to AEP**: Please provide or indicate VDR location.
[6][20] Note to Draft: Disclosure subject to confidentiality limitations.
[7][21] Note to Draft: Disclosure subject to confidentiality limitations.
[8][22] Note to Draft: Disclosure subject to confidentiality limitations.
[23] **Note to AEP**: Please provide or indicate VDR location.
[9][24] Note to Draft: Disclosure subject to confidentiality limitations.

- Agreement No, AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)[25]

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.2(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)[26]

  - Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for,

[25] **Note to AEP**: Please provide or indicate VDR location.
[26] **Note to AEP**: Please provide or indicate VDR location.

Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as Agent for Kentucky Power Company, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as Agent for Kentucky Power Company, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power Company, and Headwaters Resources, LLC[27]

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Ohio Power Company, as amended by that certain Amendment No. 2010-1, dated August 2, 2010, as further amended by that certain Amendment No. 2012-1, dated February 20, 2012, as further amended by that certain Amendment No. 2013-1, dated June 5, 2013 (the "CertainTeed Contract")[28]

  - The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

[27] **Note to AEP**: Please provide or indicate VDR location.
[28] **Note to AEP**: Please provide or indicate VDR location.

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

(iii)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof are hereby incorporated by reference

(iv)

None.

(v)

None.

(vi)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

(vii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter ~~and any replacements thereof~~ are hereby incorporated by reference

(viii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.9
Registered Intellectual Property

Registered Trademarks[29]

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[10]30

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None[31]

Registered Copyrights

~~None~~

Title	Reg. #	Claimant (U.S. C.O.)

[29] **Note to AEP**: Please indicate whether and to what extent the Businesses uses BOLD, BREAKTHROUGH OVERHEAD LINE, EFFICIENCY NEVER LOOKED SO GOOD, TRANSMISSION WITH CURVE APPEAL, WHEELING POWER, or any other trademark owned by entities not in-scope of the transaction.

[10]30 Note to Draft: The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

[31] **Note to AEP**: Please indicate whether the Business practices any of the claims under U.S. patent number 9806690 (Subsynchronous oscillation relay) owned by AEP Transmission Holding Company, LLP.

[redacted]

[32] **Note to AEP**: Please provide information regarding this work and its materiality to the Business; it appears to be jointly owned together with a third party who has pledged it as collateral several times.

Section 2.10
Legal Proceedings[11][33]

Pending Litigation:

1. Doug & Cindy Smith v. Kentucky Power Company, Carter Circuit Court Case No. 15-CI-0235.
2. Yvonne Cubbison v. Kentucky Power Company and Asplundh Tree Expert Company, Boyd Circuit Court Case No. 16-CI-00497.
3. Estate of Tony Craig v. Kentucky Power Company, American Electric Power Company, Inc. and Asplundh Tree Expert Company, Greenup Circuit Court Case No. 16-CI-00470.
4. Eric & Johnda Roseberry v. Chris Tucker, Kentucky Power Company and Manpower Company, Greenup Circuit Court Case No. 19-CI-00130.
5. Shannon Williams v. AWP, Inc., Tyler Collins, Kentucky Power Company and CNA Claimplus, Inc., Kenton Circuit Court Case No. 19-CI-00813.
6. Michael O'Connell and Chezrai Kiser v. Tyler Robinette, Pike Circuit Court Case No. 16-CI-00131.
7. Donald & Lois Gibson v. Kentucky Power Company, Magoffin Circuit Court Case No. 19-CI-00136.
8. Robert Peters v. Kentucky Power Company, Johnson Circuit Court Case No. 20-CI-00035.
9. Estate of Justin Miller v. Kentucky Power Company, Breathitt Circuit Court Case No. 17-CI-00087.
10. Truman Chappell v. Kentucky Power Company and Summit Helicopters, Leslie Circuit Court Case No. 20-CI-00093.
11. Dakota Adams v. Benson Harris v. Leslie County Telephone Company and Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00091.
12. Kentucky Farm Bureau Mutual Insurance Company a/s/o Wayne Hacker v. Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00154.
13. Big Sandy Company, L.P. v. Kentucky Power Company, Pike Circuit Court Case No. 21-CI-00309.
14. [34]Gilliam v. KPCo, No. 12-296 (Knott Circuit)
15. Riverside Generating Company, L.L.C. v. Kentucky Public Service Commission and Kentucky Power Company
16. Kentucky Power Company v. Kentucky Public Service Commission (Kentucky Supreme Court)
17. Kentucky Power Company v. American Resources Corp. No. 20-37 (Perry Circuit)
18. Kentucky Farm Bureau v. Kentucky Power Company No. 20154 (Leslie Circuit)
19. Kentucky Power Company v. Baker No. 19-459 (Perry Circuit)
20. Estate of Brandon Chapman: Unfiled claim associated with death of Brandon Chapman

[11][33] Note to Draft: The listed matters (other than the NSR Consent Decree) do not meet the current standard of Material Adverse Effect; however, they are being scheduled for placeholder purposes at this point.

[34] **Note to AEP**: For items 14-21, please provide a short case summary, an estimate of amount of liability/claims involved and status or please indicate VDR location where such items may be found. We would generally like a call to discuss all litigation matters on Schedule 2.10.

21. TVS Cable Fatality and Injury: Unfiled claim associated with death and injury of TVS Cable employees.

Pending Asbestos Litigation:

[The individuals listed below have pending asbestos claims/pending litigation:[12]35[36]

1. Thomas Caudill
2. Glen Dale Brown (Jimmie Sue Brown & Chastity Brown)
3. Harold Harden
4. John William Fair
5. James Lambert
6. Billy (Sharlotte) Lyons
7. Gale McBride
8. James Mulvaney
9. Judith Neace
10. Michael J. Nedeff
11. O. David Durham
12. Willie Rhem
13. William (Teresa) Venham
14. William P. Maddux
15. William S. McGuire
16. Kelly Sr. Winebrenner (Darcy Lind)
17. Ronald Eugene Withrow][37]

Other Pending Claims:

1. Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power Company (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.
2. In Re Fortress Resources LLC ((Eastern District of Kentucky Bankruptcy Court).

Orders:

3. ~~2.~~ The NSR Consent Decree.

[12]35 Note to Draft: The matters below are asserted against multiple Affiliates, including Kentucky Power, and other third parties.

[36] **Note to AEP:** To discuss list as does not align with public records.

[37] **Note to AEP:** Please provide additional specificity with regards to each claim, plaintiff and parties.

Section 2.12
Real Property~~13~~38

None.

~~13~~38 Note to Draft: Sellers are analyzing if any real property used in the business of the Acquired Companies is held in the name of either of the Franklin real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate, prior to the Closing. **Note to AEP**: Please advise on outcome of review.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan[39]
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan[40]
- American Electric Power System Long-Term Incentive Plan 1[41]
- American Electric Power Annual Incentive Compensation Plan:[42]
  - Utilities/Kentucky Power Plan
  - Energy Delivery Plan
  - Generation Plan
  - Corporate/Staff Plan

Certain senior management members of Kentucky Power or Kentucky TransCo are parties to retention agreements that may trigger a payment if they remain employed by such companies through the Closing Date.~~14~~[43]

[39] **Note to AEP**: Please list the American Electric Power System Excess Benefit Plan, and the American Electric Power System Supplemental Retirement Savings Plan.

[40] **Note to AEP**: Please list the American Electric Power Executive Severance Plan, and please list and provide the American Electric Power Service Corporation Change In Control Agreement mentioned in the Executive Severance Plan.

[41] **Note to AEP**: Please list and provide all forms of award agreements and any material deviations therefrom under the 2015 Long-Term Incentive Plan

[42] **Note to AEP**: Please list the American Electric Power System Incentive Compensation Deferral Plan

~~14~~[43] Note to Draft: Additional detail about such retention agreements will be disclosed to bidders at a later date.

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None.

(iii) None.

[redacted]

Section 2.14(a)
Labor Matters[~~16~~46]

[**See Attached**]

[Clean copies of the following to be attached]

Document at VDR 2.8.4 (Project Nickel Job Positions and Locations)

[~~16~~46] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section 2.14(b)
Labor Matters[47]

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124~~17~~ 48

[47] **Note to AEP**: Note to Seller: subject to diligence. Purchaser needs to understand which CBAs apply only to in-scope employees, and which apply to both in-scope and out-of-scope employees.

~~17~~48 Note to Draft: Number includes Mitchell Employees.

Section 2.15
Taxes

- There are Tax Proceedings underway concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018.
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018.

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None.

Section 2.16(d)
Environmental Claims

None.

Section 4.1(a)
Conduct of Business[49]

(i)

[Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs" which was purchased as a potential site for a power plant that was not pursued. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.][50]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

Kentucky Power is in process of completing the demolition of Unit 2 at Big Sandy, which is expected to be completed during 2021.

(ii)

The execution of new contracts, contract amendments and contract terminations requiring consent and or notice as set forth on Sections 2.4(a) and 2.4(b) of the Sellers Disclosure Letter are hereby incorporated by reference.[51]

[Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TranscCo and several other Affiliates, as amended.][52]

If the Master Leases are not replaced with separate leases for Kentucky Power with respect to the vehicles and equipment leased by Kentucky Power, Kentucky Power intends to purchase currently leased personal property from the lessors thereof, including computers and vehicles, prior to the Closing so that such property will be owned by the Acquired Companies. Any such expenditures to purchase such property shall be included as capital expenditures in the calculation of the Capital Expenditures Amount. Sellers intend to cause the transfer of, the lease by or to otherwise provide the benefit to certain assets covered under the Master Leases to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company.[53]

[49] **Note to AEP**: Schedule subject to further review and discussion, including to provide for better guidance and parameters on what is contemplated for several of these items.
[50] **Note to AEP**: To be discussed.
[51] **Note to AEP**: New contracts/amendments/terminations should be subject to Purchaser's review and consent.
[52] **Note to AEP**: To be discussed.
[53] **Note to AEP:** As proposed in the purchase agreement, please provide the expected amount of such a purchase.

[redacted]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.[56]

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company.[57]

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take action reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements ~~and, if applicable, the ELG (Effluent Limitation Guidelines) requirements, the latter category of which is not currently reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter~~.[~~19~~58]

(iii)

None

(iv)

None

(v)

[Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million with a comparable amount of short and/or long term debt issued to unaffiliated third parties or by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.]

[The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may issue new debt or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.]

[56] **Note to AEP:** To discuss, including discharge of security interest.

[57] **Note to AEP**: Modifications should not reduce / discharge any obligations owed by the Seller Entities in favor of the Acquired Companies.

[~~19~~58] Note to Draft: Subject to further review.

[The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may issue new debt or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.]

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements

(vi)

None

(vii)

None

(viii)

[AEP plans to cause Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, to elect out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020.]

(ix)

None

(x)

[Kentucky Power intends to submit an application requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout.

Kentucky Power intends to submit an application requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.]

(xi)

None

(xii)

None, other than listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See Attached.

[Provided separately]

Section 4.8(a)
Intercompany Arrangements

(a)

- Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates.

- AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document.

- The following agreements (the "Interconnection Agreements") will be executed on or prior to the Closing Date:

    - Transmission Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company

    - Distribution Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company and (ii) Kentucky Power and Appalachian Power Company

- The following Intercompany Arrangements will continue by their terms:

    - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company
    - [Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power Company, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective][~~20~~59]
    - [Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power Company][~~21~~60]

[~~20~~59] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.
[~~21~~60] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.

Section 4.9
Support Obligations

- ~~Guaranty Agreement dated December 13, 2017 made by AEP in favor of Duquesne Light Company in consideration of the Default Supply Master Agreement(s) between Duquesne Light Company and AEPSC, as agent for Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power and Wheeling Power Company dated March 23, 2017.~~

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342.

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement[61]

- TransCo Intercompany Notes

- Any new debt arrangements entered into as set forth on section (v) of Section 4.1(a) of the Sellers Disclosure Letter

[61] **Note to AEP**: Please provide or indicate VDR location.

Section 4.17[62]
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates[63]

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- [~~Sellers are analyzing if any~~Any real property, permits or leases used in the business of the Acquired Companies ~~is~~ held in the name of either of the Franklin real property companies or other AEP affiliates including AESP. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing]

- [redacted]

- Such other items identified prior to closing reasonably necessary to operate the Acquired Companies, including the addition of any services to Exhibit A of the Transition Services Agreement.

[62] **Note to AEP:** Parties to discuss and confirm in the context of transition planning.
[63] **Note to AEP:** Please provide additional details on the cost anticipated to be associated with the lease.

Section 4.18[64]
NERC Registration

[redacted]

[redacted]

[redacted]

[redacted] **Note to AEP:** Parties to discuss and confirm in the context of transition planning.

~~22~~65 Note to Draft: As the TO/TOP, Purchaser will be subject to the PJM TO/TOP matrix.

~~23~~66 Note to Draft: Purchaser's Resource Planner (RP), Transmission Operator (TOP), and Transmission Planner (TP) registrations will require coordination with PJM.

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 5.19
AEPSC Employees

[To be provided] [24]67

[24]67 Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section A(i)
Knowledge of Purchaser

Section A(ii)
Knowledge of Sellers

[To be provided]

Section A(iii)
Certain Permitted Encumbrances

None.

Section A(iv)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement
- Approvals of or acceptance by FERC under Section 205 of the FPA for the replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- ~~[~~The CFIUS~~]~~[25] Clearance[68]
- [Approval of FERC under Section 204 of the FPA and the KPSC under Kentucky Revised Statutes § 278.300][69]

[25] ~~Note to Draft: CFIUS requirements to be included for non-U.S. bidders, if applicable.~~
[68] Note to Draft: CFIUS requirements to be included for non-U.S. bidders, if applicable. **Note to AEP**: To be included.
[69] **Note to AEP**: Pending settlement of financing plan prior to signing.

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:08:00 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\1. Project Nickel - Sellers Disclosure Letter [Auction Draft] [AEP 8-6-2021].DOCX
Description	1. Project Nickel - Sellers Disclosure Letter [Auction Draft] [AEP 8-6-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\2. Project Nickel - Sellers Disclosure Letter [Liberty 9-20-21].docx
Description	2. Project Nickel - Sellers Disclosure Letter [Liberty 9-20-21]
Rendering set	Standard

Legend:	
Insertion	
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Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Insertions	222
Deletions	63
Moved from	0
Moved to	0

Style changes	0
Format changes	0
Total changes	285

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to [PURCHASER], a [●] ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of [●], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations[1]
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - The Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[2]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, and Ohio Power Company)[3]
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - [Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)][4]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power

[1] **Note to AEP**: To discuss impact on the Business of not obtaining any of these approvals that are not Required Regulatory Approvals.
[2] Note to Draft: This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[3] Note to Draft: This agreement has expired by its terms and a corresponding FERC filing is required.
[4] Note to Draft: See footnote 1.

Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- [PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC]
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The entry into of the following agreements and/or applications:[5]

  - The Mitchell Plant O&M Agreement
  - The Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - Transmission Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company[6]

[5] **Note to AEP:** To discuss inclusion of more specific filing timelines for certain of these documents.

[6] **Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role.

- Distribution Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company and (ii) Kentucky Power and Appalachian Power Company
- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

specify who will serve in each role.

- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and AEP Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- [Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power][7]

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit # R33-3948-2017-4 within 30 days of Closing

- [The permits in the table below are being reviewed for notice/approval requirements in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company – that review is ongoing]

[7] **Note to AEP:** This also appears on the required regulatory approvals.

Environmental Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.1.4		Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5		Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6		Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7		Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3		NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4		NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554- 943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1		Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.2		Maintenance Dredging Permit	200300265	08/18/03	USACE
2.7.2.7.3		Barge Mooring & Fleeting	200501038	07/28/05	USACE
2.7.2.7.4		Intake Structure		04/09/68	USACE
2.7.2.7.5		Coal Unloading Dock Extension	76032l	10/13/78	USACE
2.7.2.7.7		404 Permit Landfill Expansion	2011-1499	12/05/16	USACE
2.7.2.7.8		Barge Mooring Facility	200501351	11/17/05	USACE
2.7.2.7.9		404 NW Permit (ML DFA)	2011-940	01/20/12	USACE
2.7.2.7.10		Maintenance Dredging Permit	2003-265	01/31/14	USACE
2.7.2.7.11		Individual 404 Permit (LF/HR)	2011-1499	03/04/13	USACE
2.7.2.7.12		Plant Construction		05/16/69	USACE
2.7.2.7.13		Coal Unloading Dock	4600	02/08/71	USACE
2.7.2.7.14		401 Water Quality Certification	WQC160006	03/30/17	WVDEP
2.7.2.7.6		DNR Right of Entry Permit	R-124/25-1247	11/02/12	WVDNR
		DNR Right of Entry Permit	L-054/25-1613	01/23/06	WVDNR

Other Permits

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
		CAIR Permit			WVDEP
		CAIR Certificate of Representation			USEPA
		Landfill			WVDEP
		EPCRA / LEPC			LEPC
.9		Coal Unloading Dock Extension	76032	10/13/78	USACE
		General NPDES Construction (ML DFA)	WVOI 15924	12/22/11	WVDEP

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
		General NPDES Construction (ML HR)	WV0115924	05/11/12	WVDEP
		General NPDES Construction (ML LF Subsurface)	WV0115924	08/25/11	WVDEP
		General NPDES Construction (ML LF/HR)	WVO 115924	09/24/12	WVDEP
		Individual WV/NPDES Permit (ML LF)	WVO 116742		WVDEP
.37		Intake Structure		04/09/68	USACE
		Barge Facility Operating Plan	R13-2608		USACE
		SWPPP (Plant)			WVDEP
		SWPPP's associated with Construction			WVDEP
		SPCC Plan			USEPA
		Facility Response Plan			USEPA
		Groundwater Protection Plan			WVDEP
.1		Weight Test Cover Sheet			
.3	AEP	HSB Boiler Inspection Report		08/28/20	Htfd Steam Boiler
.6		Steam boiler Inspection		9/9/19	WV DOL
.7	OPCo Horizon Telcom	Fiber Optic Permit		3/20/12	WV DOT
.8	Kentucky Power	Materials License Californium-252	47-31210-01	11/10/16	US NRC
.10	Kentucky Power	W.M.Robinson USCG Boat Documentation		10/26/20 (expires 11/30/21)	USCG
.11	OPCo	Sewage Tank Permit	SHT-99-13-017	05/21/13	WV PH-EHS
.12	Boral Resources	Scale Calibration		03/4/21	
.13		Drinking Water NoV			
.14	APCo	W.M. Robinson Radio License	FRN 0002073484		FCC
.16	Kentucky Power	Sewage Tank Permit	SHT-99-17-007	03/03/17	WV PH-EHS
.17	AEP	General License	GL-700076-26	11-19-20	US NRC
.18	AEP	Kammer Power NoV	GW-25-034-TJA	4-10-19	WV DEP
.19	Franklin Real	Sewage Tank Permit	STS-25-13-22	09/05/12	WV PH-EHS

Data Room 2.4.3.1.--	Entity	Permit / License	Number	Date	Agency
	Estate				
.20	AEP	Caretaker Status	FIN# PITMS402	10/19/12	USCG
.21	AEP	Public Notice – Barge Expansion	2005-1038	06/14/13	USACE
.22	Various	NPDES Permit Exceptions/NoV		Various	
.24	Indeterminable	Various Software Licenses		Indeterminable	
.25	Indeterminable	Radiation Source List			Indeterminable
.28	Kentucky Power	Mitchell Station NoV	NOV W18-25-032-TJA	11-28-18	WV DEP
.29	OPCo	Bridge Agreement		1-30-2006	WV DOT
.30	Indeterminable	Tritium Inventory			Indeterminable
.31		Steam boiler Inspection		8/29/19	WV DOL
.32		Steam boiler Inspection		6/11/20	WV DOL
.33		W.M.Robinson Cert. of Inspection		3/19/20	USCG
.34	Kentucky Power Company/Wheeling Power Company	Waterfront Facility Operations Guide		11/17/05 as revised	USACE
.35	AEP	Right of Way	06-2013-0545	11/21/13	WV DOT
.36	AEP	Radiation Machine Registration	261600	02/25/24	WV HHR PH
.41 & .42	AEP	Scale Calibration		12/08/20	
.43		RR Crossing Permits			CSX
.44	AEP	Route 2 Utility Crossing Encroachment Permit Report	V-54658-19-00073	06/28/13	
.45	AEP	Route 2 Overhead Structure Encroachment Permit Report	V-54658-19-00073		

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)[8]

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power Company and Consolidation Coal Company, dated as of July 2, 2015[9]

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch
    - [Any new debt arrangements entered into as described in section (v) of Section 4.1(a) of the Sellers Disclosure Letter][10]

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC[11]

[8] **Note to AEP**: To discuss impact on the Business of not obtaining these approvals.
[9] **Note to AEP**: To discuss whether failure to provide such notice would result in a breach of the agreement.
[10] **Note to AEP**: To discuss/confirm. Is this just intended to refer to interim bridge financing under the Utility Money Pool?
[11] ~~**Note to AEP**: Please provide or indicate VDR location.~~

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

    - [Master Coal Purchase and Sale Agreement Number AEP-KPCO-CCS-19-001 dated March 22, 2019 between Kentucky Power and Alpha Metallurgical Coal Sales, LLC dba Alpha Thermal Coal Sales Company (f/k/a Contura Coal Sales, LLC)]~~12~~11
    - Purchase Order No. 03-00-19-9M1 dated March 22, 2019 to Master Agreement Number AEP-KPCO-CCS-19-001 between Kentucky Power and Alpha Metallurgical Coal Sales, LLC dba Alpha Thermal Coal Sales Company (f/k/a Contura Coal Sales, LLC)
    - Purchase Order No. 03-00-19-9M3 dated September 17, 2019 to Master Agreement Number AEP-KPCO-CCS-19-001 between Kentucky Power and Alpha Metallurgical Coal Sales, LLC dba Alpha Thermal Coal Sales Company (f/k/a Contura Coal Sales, LLC)
    - Purchase Order No. 03-00-18-004 dated August 28, 2018 between Kentucky Power and Alpha Metallurgical Coal Sales, LLC dba Alpha Thermal Coal Sales Company (f/k/a Contura Coal Sales, LLC), as amended by Notice of Change Order No. One dated February 25, 2020, effective January 1, 2020 and Notice of Change Order No. Two dated December 3, 2020, effective October 1, 2020

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

~~12~~11 **Note to AEP**: Discuss.

Section 2.5(a)
Financial Statements

See Attached

[Clean copies of the following to be attached]

Kentucky Power

December 31, 2019 and December 31, 2020
VDR 2.3.1 (2020 Audited Financial Statements KPC) (this document includes 2019 and 2020)

[*June 30, 2021*]
VDR 2.3.22 (KPCo 2021 2Q)

Kentucky TransCo

December 31, 2019 and December 31, 2020
VDR 2.3.21 (2020 FF1 AEP Kentucky Transmission Company.PDF) (this document includes 2019 and 2020)

[*June 30, 2021*]
[To be uploaded]

Section 2.5(c)
Liabilities

None.

Section 2.7
Sufficiency of Assets

~~13~~12

[Sellers are analyzing if any real property used in the business of the Acquired Companies is held in the name of either of the Franklin real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate, prior to the Closing.]~~14~~13

~~13~~12 **Note to AEP**: Any Seller IP that is used by the Business but that will not either transfer or be subject to ongoing rights for Buyer (i.e., pursuant to a perpetual license or covenant not to sue) needs to be identified with specificity. To discuss impact and materiality that ceasing to use Seller IP will have on Business.

~~14~~13 **Note to AEP:** Please advise on outcome of review.

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

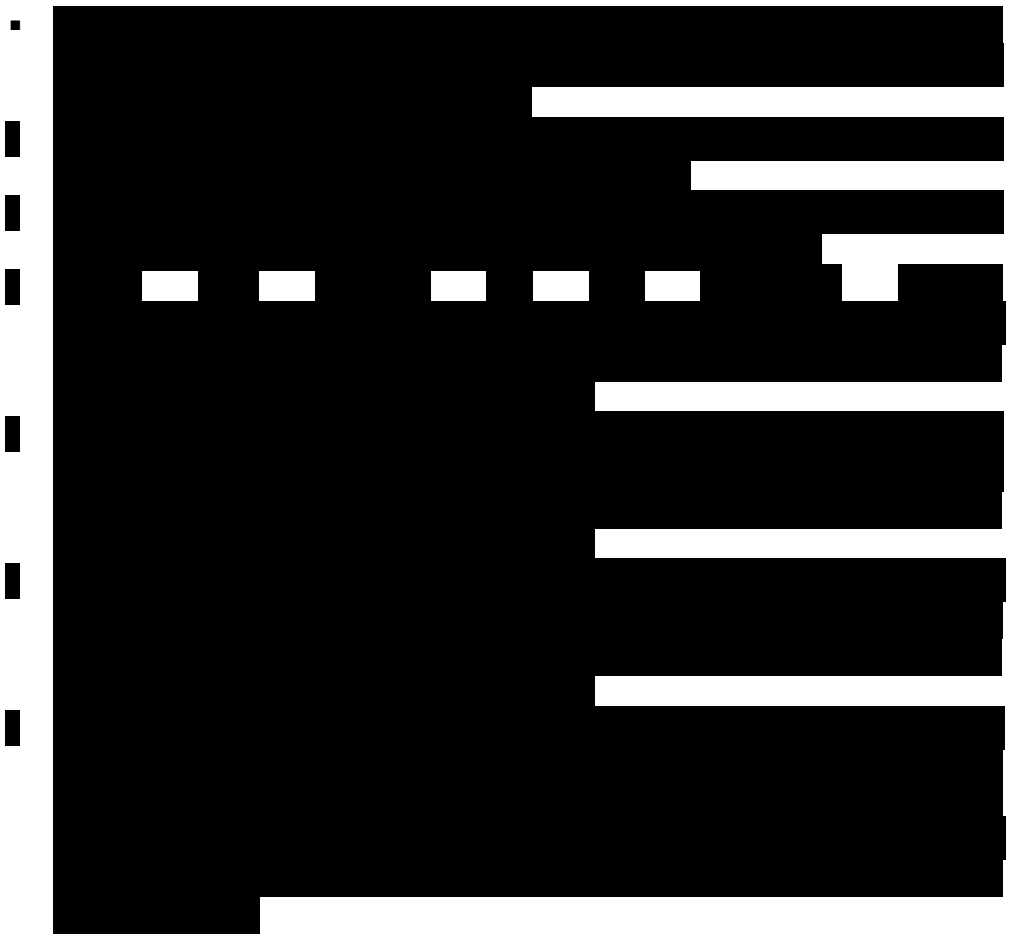
- The Shared Contracts set forth on the attached.
  [Clean copies of the following to be attached]
  Document at VDR 2.5.3.2[~~15~~14]

- The Contracts listed under Section 2.8(a)(iii) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Fuel and Transportation Contracts**

  - Coal (Mitchell Plant)



  - Coal Transportation (Mitchell Plant)

[~~15~~14] **Note to AEP**: Please provide all the contracts listed in the document at VDR 2.5.3.2.

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)[16]

  - FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
  - Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)[17]

- **Consumables and Consumables Transportation**

[16] ~~**Note to AEP**: Please provide the four agreements or indicate VDR location.~~
[17] ~~Note to Draft: Disclosure subject to confidentiality limitations.~~

- Urea (Mitchell Plant)

  - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.[18]

- Urea Terminal and Transportation (Mitchell Plant)

  - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power[19]
  - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended[2015]

- Lime (Mitchell Plant)

  - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company, and AEP Consumable Purchase Order General Terms and Conditions dated 1/1/2015 (delivered by truck)[2116]

  AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power, and Mississippi Lime Company, and AEP Consumable Purchase Order General Terms and Conditions dated 1/1/2015

  - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)[2217]

- Limestone (Mitchell Plant)

  - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between Kentucky Power and Hilltop Big Bend Quarry, LLC.[23]

  - Agreement No. 07-00-0603-00-21-LS0 dated March 3, 2006 betweenAugust 1, Kentucky Power and O-N Minerals (Michigan) Company, nka O-N Minerals dbabetween AEPSC, Carmeuse Lime and& Stone, as amended Inc.(delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation above)[24]

[18] Note to Draft: Disclosure subject to confidentiality limitations.
[19] **Note to AEP**: Please provide or indicate VDR location.
[20] Note to Draft: Disclosure subject to confidentiality limitations.
[21] Note to Draft: Disclosure subject to confidentiality limitations.
[2217] Note to Draft: Disclosure subject to confidentiality limitations.
[23] **Note to AEP**: Please provide or indicate VDR location.
[24] Note to Draft: Disclosure subject to confidentiality limitations.

- Trona (Mitchell Plant)

  - Agreement No, AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)[25]

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.2(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)[26]

[25] ~~**Note to AEP**: Please provide or indicate VDR location.~~
[26] ~~**Note to AEP**: Please provide or indicate VDR location.~~

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for, Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as Agent for Kentucky Power Company, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as Agent for Kentucky Power Company, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power Company, and Headwaters Resources, LLC[27]

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Ohio Power Company, as amended by that certain Amendment No. 2010-1, dated August 2, 2010, as further amended by that certain Amendment No. 2012-1, dated February 20, 2012, as further amended by that certain Amendment No. 2013-1, dated June 5, 2013 (the "CertainTeed Contract")[28]

[27] ~~**Note to AEP**: Please provide or indicate VDR location.~~
[28] ~~**Note to AEP**: Please provide or indicate VDR location.~~

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

(iii)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof are hereby incorporated by reference

(iv)

None.

(v)

None.

(vi)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

(vii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter are hereby incorporated by reference

(viii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.9
Registered Intellectual Property

Registered Trademarks[29][18]

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[30][19]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None[31][20]

Registered Copyrights

Title	Reg. #	Claimant (U.S. C.O.)

[29][18] **Note to AEP**: Please indicate whether and to what extent the Businesses uses BOLD, BREAKTHROUGH OVERHEAD LINE, EFFICIENCY NEVER LOOKED SO GOOD, TRANSMISSION WITH CURVE APPEAL, WHEELING POWER, or any other trademark owned by entities not in-scope of the transaction.

[30][19] Note to Draft: The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

[31][20] **Note to AEP**: Please indicate whether the Business practices any of the claims under U.S. patent number 9806690 (Subsynchronous oscillation relay) owned by AEP Transmission Holding Company, LLP.

[redacted]	[redacted]	[redacted]

[32][21] **Note to AEP**: Please provide information regarding this work and its materiality to the Business; it appears to be jointly owned together with a third party who has pledged it as collateral several times.

[redacted]

Section 2.10
Legal Proceedings[3322]

Pending Litigation:

1. Doug & Cindy Smith v. Kentucky Power Company, Carter Circuit Court Case No. 15-CI-0235.
2. Yvonne Cubbison v. Kentucky Power Company and Asplundh Tree Expert Company, Boyd Circuit Court Case No. 16-CI-00497.
3. Estate of Tony Craig v. Kentucky Power Company, American Electric Power Company, Inc. and Asplundh Tree Expert Company, Greenup Circuit Court Case No. 16-CI-00470.
4. Eric & Johnda Roseberry v. Chris Tucker, Kentucky Power Company and Manpower Company, Greenup Circuit Court Case No. 19-CI-00130.
5. Shannon Williams v. AWP, Inc., Tyler Collins, Kentucky Power Company and CNA Claimplus, Inc., Kenton Circuit Court Case No. 19-CI-00813.
6. Michael O'Connell and Chezrai Kiser v. Tyler Robinette, Pike Circuit Court Case No. 16-CI-00131.
7. Donald & Lois Gibson v. Kentucky Power Company, Magoffin Circuit Court Case No. 19-CI-00136.
8. Robert Peters v. Kentucky Power Company, Johnson Circuit Court Case No. 20-CI-00035.
9. Estate of Justin Miller v. Kentucky Power Company, Breathitt Circuit Court Case No. 17-CI-00087.
10. Truman Chappell v. Kentucky Power Company and Summit Helicopters, Leslie Circuit Court Case No. 20-CI-00093.
11. Dakota Adams v. Benson Harris v. Leslie County Telephone Company and Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00091.
12. Kentucky Farm Bureau Mutual Insurance Company a/s/o Wayne Hacker v. Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00154.
13. Big Sandy Company, L.P. v. Kentucky Power Company, Pike Circuit Court Case No. 21-CI-00309.
14. [3423]Gilliam v. KPCo, No. 12-296 (Knott Circuit)
15. Riverside Generating Company, L.L.C. v. Kentucky Public Service Commission and Kentucky Power Company
16. Kentucky Power Company v. Kentucky Public Service Commission (Kentucky Supreme Court)
17. Kentucky Power Company v. American Resources Corp. No. 20-37 (Perry Circuit)
18. Kentucky Farm Bureau v. Kentucky Power Company No. 20154 (Leslie Circuit)
19. Kentucky Power Company v. Baker No. 19-459 (Perry Circuit)
20. Estate of Brandon Chapman: Unfiled claim associated with death of Brandon Chapman

[3322] Note to Draft: The listed matters (other than the NSR Consent Decree) do not meet the current standard of Material Adverse Effect; however, they are being scheduled for placeholder purposes at this point.

[3423] **Note to AEP**: For items 14-21, please provide a short case summary, an estimate of amount of liability/claims involved and status or please indicate VDR location where such items may be found. We would generally like a call to discuss all litigation matters on Schedule 2.10.

21. TVS Cable Fatality and Injury: Unfiled claim associated with death and injury of TVS Cable employees.

Pending Asbestos Litigation:

[The individuals listed below have pending asbestos claims/pending litigation:[35][24][36][25]

1. Thomas Caudill
2. Glen Dale Brown (Jimmie Sue Brown & Chastity Brown)
3. Harold Harden
4. John William Fair
5. James Lambert
6. Billy (Sharlotte) Lyons
7. Gale McBride
8. James Mulvaney
9. Judith Neace
10. Michael J. Nedeff
11. O. David Durham
12. Willie Rhem
13. William (Teresa) Venham
14. William P. Maddux
15. William S. McGuire
16. Kelly Sr. Winebrenner (Darcy Lind)
17. Ronald Eugene Withrow][37][26]

Other Pending Claims:

1. Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power Company (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.
2. In Re Fortress Resources LLC ((Eastern District of Kentucky Bankruptcy Court).

Orders:

3. The NSR Consent Decree.

[35][24] Note to Draft: The matters below are asserted against multiple Affiliates, including Kentucky Power, and other third parties.
[36][25] **Note to AEP:** To discuss list as does not align with public records.
[37][26] **Note to AEP:** Please provide additional specificity with regards to each claim, plaintiff and parties.

Section 2.12
Real Property[3827]

None.

[3827] Note to Draft: Sellers are analyzing if any real property used in the business of the Acquired Companies is held in the name of either of the Franklin real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate, prior to the Closing. **Note to AEP**: Please advise on outcome of review.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan[3928]
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan[4029]
- American Electric Power System Long-Term Incentive Plan 1[4130]
- American Electric Power Annual Incentive Compensation Plan:[4231]
  - Utilities/Kentucky Power Plan
  - Energy Delivery Plan
  - Generation Plan
  - Corporate/Staff Plan

Certain senior management members of Kentucky Power or Kentucky TransCo are parties to retention agreements that may trigger a payment if they remain employed by such companies through the Closing Date.[4332]

[3928] **Note to AEP**: Please list the American Electric Power System Excess Benefit Plan, and the American Electric Power System Supplemental Retirement Savings Plan.

[4029] **Note to AEP**: Please list the American Electric Power Executive Severance Plan, and please list and provide the American Electric Power Service Corporation Change In Control Agreement mentioned in the Executive Severance Plan.

[4130] **Note to AEP**: Please list and provide all forms of award agreements and any material deviations therefrom under the 2015 Long-Term Incentive Plan

[4231] **Note to AEP**: Please list the American Electric Power System Incentive Compensation Deferral Plan

[4332] Note to Draft: Additional detail about such retention agreements will be disclosed to bidders at a later date.

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None.

(iii) None.

[redacted]

Section 2.14(a)
Labor Matters[4635]

[**See Attached**]

[Clean copies of the following to be attached]

Document at VDR 2.8.4 (Project Nickel Job Positions and Locations)

[4635] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section 2.14(b)
Labor Matters[47][36]

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[48][37]

[47][36] **Note to AEP**: Note to Seller: subject to diligence. Purchaser needs to understand which CBAs apply only to in-scope employees, and which apply to both in-scope and out-of-scope employees.
[48][37] Note to Draft: Number includes Mitchell Employees.

Section 2.15
Taxes

- There are Tax Proceedings underway concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018.
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018.

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None.

Section 2.16(d)
Environmental Claims

None.

Section 4.1(a)
Conduct of Business[49][38]

(i)

[Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs" which was purchased as a potential site for a power plant that was not pursued. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.][50][39]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

Kentucky Power is in process of completing the demolition of Unit 2 at Big Sandy, which is expected to be completed during 2021.

(ii)

The execution of new contracts, contract amendments and contract terminations requiring consent and or notice as set forth on Sections 2.4(a) and 2.4(b) of the Sellers Disclosure Letter are hereby incorporated by reference.[51][40]

[Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TranscCo and several other Affiliates, as amended.][52][41]

If the Master Leases are not replaced with separate leases for Kentucky Power with respect to the vehicles and equipment leased by Kentucky Power, Kentucky Power intends to purchase currently leased personal property from the lessors thereof, including computers and vehicles, prior to the Closing so that such property will be owned by the Acquired Companies. Any such expenditures to purchase such property shall be included as capital expenditures in the calculation of the Capital Expenditures Amount. Sellers intend to cause the transfer of, the lease by or to otherwise provide the benefit to certain assets covered under the Master Leases to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company.[53][42]

[49][38] **Note to AEP**: Schedule subject to further review and discussion, including to provide for better guidance and parameters on what is contemplated for several of these items.
[50][39] **Note to AEP**: To be discussed.
[51][40] **Note to AEP**: New contracts/amendments/terminations should be subject to Purchaser's review and consent.
[52][41] **Note to AEP**: To be discussed.
[53][42] **Note to AEP:** As proposed in the purchase agreement, please provide the expected amount of such a purchase.

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted]

[redacted].

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.[~~56~~45]

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company.[~~57~~46]

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take action reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements.[~~58~~47]

(iii)

None

(iv)

None

(v)

[Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million with a comparable amount of short and/or long term debt issued to unaffiliated third parties or by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.]

[The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may issue new debt or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.]

[The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power

[~~56~~45] **Note to AEP:** To discuss, including discharge of security interest.
[~~57~~46] **Note to AEP**: Modifications should not reduce / discharge any obligations owed by the Seller Entities in favor of the Acquired Companies.
[~~58~~47] Note to Draft: Subject to further review.

may issue new debt or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.]

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements

(vi)

None

(vii)

None

(viii)

[AEP plans to cause Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, to elect out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020.]

(ix)

None

(x)

[Kentucky Power intends to submit an application requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout.

Kentucky Power intends to submit an application requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.]

(xi)

None

(xii)

None, other than listed on this Section 4.1(a) of the Sellers Disclosure Letter

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Section 4.1(c)
Capital Expenditures

See Attached.

[Provided separately]

Section 4.8(a)
Intercompany Arrangements

(a)

- Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates.

- AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document.

- The following agreements (the "Interconnection Agreements") will be executed on or prior to the Closing Date:

    - Transmission Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company

    - Distribution Interconnection Agreement(s) between; (i) Kentucky Power and Ohio Power Company and (ii) Kentucky Power and Appalachian Power Company

- The following Intercompany Arrangements will continue by their terms:

    - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company
    - [Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power Company, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective][~~59~~48]
    - [Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power Company][~~60~~49]

[~~59~~48] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.
[~~60~~49] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342.

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement~~61~~50

- TransCo Intercompany Notes

- Any new debt arrangements entered into as set forth on section (v) of Section 4.1(a) of the Sellers Disclosure Letter

~~61~~50 **Note to AEP**: Please provide or indicate VDR location.

Section 4.17[62][51]
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates[63][52]

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- [Any real property, permits or leases used in the business of the Acquired Companies held in the name of either of the Franklin real property companies or other AEP affiliates including AESP. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing]

- [redacted]

- Such other items identified prior to closing reasonably necessary to operate the Acquired Companies, including the addition of any services to Exhibit A of the Transition Services Agreement.

[62][51] **Note to AEP:** Parties to discuss and confirm in the context of transition planning.
[63][52] **Note to AEP:** Please provide additional details on the cost anticipated to be associated with the lease.

Section 4.18[6453]
NERC Registration

[redacted]

[redacted] **Note to AEP:** Parties to discuss and confirm in the context of transition planning.

[6554] Note to Draft: As the TO/TOP, Purchaser will be subject to the PJM TO/TOP matrix.

[6655] Note to Draft: Purchaser's Resource Planner (RP), Transmission Operator (TOP), and Transmission Planner (TP) registrations will require coordination with PJM.

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 5.19
AEPSC Employees

[To be provided] [6756]

[6756] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section A(i)
Knowledge of Purchaser

Section A(ii)
Knowledge of Sellers

[To be provided]

Section A(iii)
Certain Permitted Encumbrances

None.

Section A(iv)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement
- Approvals of or acceptance by FERC under Section 205 of the FPA for the replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance[~~68~~57]
- [Approval of FERC under Section 204 of the FPA and the KPSC under Kentucky Revised Statutes § 278.300][~~69~~58]

[~~68~~57] Note to Draft: CFIUS requirements to be included for non-U.S. bidders, if applicable. **Note to AEP**: To be included.

[~~69~~58] **Note to AEP**: Pending settlement of financing plan prior to signing.

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:08:35 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\2. Project Nickel - Sellers Disclosure Letter [Liberty 9-20-21].docx
Description	2. Project Nickel - Sellers Disclosure Letter [Liberty 9-20-21]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\3. Project Nickel - Sellers Disclosure Letter [Liberty 9-30-21].DOCX
Description	3. Project Nickel - Sellers Disclosure Letter [Liberty 9-30-21]
Rendering set	Standard

Legend:	
Insertion	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Insertions	102
Deletions	125
Moved from	0
Moved to	0
Style changes	0

Format changes	0
Total changes	227

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to [PURCHASER], a [●] ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of [●], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations[1]
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:

    - The termination of the following agreements:

        - ~~The~~ Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[2]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company~~,~~ and Ohio Power Company)[3]

    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:

        - ~~[~~Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)~~]~~[4]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)

[1] **Note to AEP**: To discuss impact on the Business of not obtaining any of these approvals that are not Required Regulatory Approvals.
[2] Note to Draft: This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[3] Note to Draft: This agreement has expired by its terms and a corresponding FERC filing is required.
[4] Note to Draft: ~~See footnote 1~~This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- ~~[~~PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC~~]~~
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC~~,~~ (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The ~~entry into of the~~ following new agreements and/or submission applications:[5]

  - ~~The~~ Mitchell Plant O&M Agreement
  - ~~The~~ Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers

[5] **Note to AEP:** To discuss inclusion of more specific filing timelines for certain of these documents.

- Transmission Interconnection Agreement(s) between~~;~~: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company[6]
- Distribution Interconnection Agreement~~(s)~~ between~~; (i) Kentucky Power and Ohio Power Company and (ii)~~ Kentucky Power and Appalachian Power Company
- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain

[6] **Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role.

operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and ~~AEP~~ Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- ~~[Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power]~~[7]

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit ~~# R33-3948-2017-4~~ within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- ~~[~~The transfer of the permits in the ~~table below are being reviewed for notice/approval requirements~~following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company ~~– that review is ongoing]~~:

[7] ~~**Note to AEP:** This also appears on the required regulatory approvals.~~

Environmental Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
~~2.7.2.7.2~~		~~Maintenance Dredging Permit~~	~~200300265~~	~~08/18/03~~	~~USACE~~
~~2.7.2.7.3~~		~~Barge Mooring & Fleeting~~	~~200501038~~	~~07/28/05~~	~~USACE~~
~~2.7.2.7.4~~		~~Intake Structure~~		~~04/09/68~~	~~USACE~~
~~2.7.2.7.5~~		~~Coal Unloading Dock Extension~~	~~760321~~	~~10/13/78~~	~~USACE~~
~~2.7.2.7.7~~		~~404 Permit Landfill Expansion~~	~~2011-1499~~	~~12/05/16~~	~~USACE~~
~~2.7.2.7.8~~		~~Barge Mooring Facility~~	~~200501351~~	~~11/17/05~~	~~USACE~~
~~2.7.2.7.9~~		~~404 NW Permit (ML DFA)~~	~~2011-940~~	~~01/20/12~~	~~USACE~~
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE
~~2.7.2.7.11~~		~~Individual 404 Permit (LF/HR)~~	~~2011-1499~~	~~03/04/13~~	~~USACE~~
~~2.7.2.7.12~~		~~Plant Construction~~		~~05/16/69~~	~~USACE~~
~~2.7.2.7.13~~		~~Coal Unloading Dock~~	~~4600~~	~~02/08/71~~	~~USACE~~
~~2.7.2.7.14~~		~~401 Water Quality Certification~~	~~WQC160006~~	~~03/30/17~~	~~WVDEP~~
~~2.7.2.7.6~~		~~DNR Right of Entry Permit~~	~~R-124/25-1247~~	~~11/02/12~~	~~WVDNR~~
		~~DNR Right of Entry Permit~~	~~L-054/25-1613~~	~~01/23/06~~	~~WVDNR~~

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

~~Data Room 2.4.3.1.~~	~~Entity~~	~~Permit / License~~	~~Number~~	~~Date~~	~~Agency~~
		~~CAIR Permit~~			~~WVDEP~~
		~~CAIR Certificate of Representation~~			~~USEPA~~
		~~Landfill~~			~~WVDEP~~
		~~EPCRA / LEPC~~			~~LEPC~~
~~.9~~		~~Coal Unloading Dock Extension~~	~~76032~~	~~10/13/78~~	~~USACE~~
		~~General NPDES Construction (ML DFA)~~	~~WVOI 15924~~	~~12/22/11~~	~~WVDEP~~
		~~General NPDES Construction (ML HR)~~	~~WV0115924~~	~~05/11/12~~	~~WVDEP~~
		~~General NPDES Construction (ML LF Subsurface)~~	~~WV0115924~~	~~08/25/11~~	~~WVDEP~~
		~~General NPDES Construction (ML LF/HR)~~	~~WVO 115924~~	~~09/24/12~~	~~WVDEP~~
		~~Individual WV/NPDES Permit (ML LF)~~	~~WVO 116742~~		~~WVDEP~~
~~.37~~		~~Intake Structure~~		~~04/09/68~~	~~USACE~~
		~~Barge Facility Operating Plan~~	~~R13 2608~~		~~USACE~~
		~~SWPPP (Plant)~~			~~WVDEP~~
		~~SWPPP's associated with Construction~~			~~WVDEP~~
		~~SPCC Plan~~			~~USEPA~~
		~~Facility Response Plan~~			~~USEPA~~
		~~Groundwater Protection Plan~~			~~WVDEP~~
~~.1~~		~~Weight Test Cover Sheet~~			
~~.3~~	~~AEP~~	~~HSB Boiler Inspection Report~~		~~08/28/20~~	~~Htfd Steam Boiler~~
~~.6~~		~~Steam boiler Inspection~~		~~9/9/19~~	~~WV DOL~~
~~.7~~	~~OPCo~~	~~Fiber Optic Permit~~		~~3/20/12~~	~~WV DOT~~

Data Room 2.4.3.1.	Entity	Permit / License	Number	Date	Agency
	Horizon Telcom				
.8	Kentucky Power	Materials License Californium 252	47-31210-01	11/10/16	US NRC
.10	Kentucky Power	W.M.Robinson USCG Boat Documentation		10/26/20 (expires 11/30/21)	USCG
.11	OPCo	Sewage Tank Permit	SHT-99-13-017	05/21/13	WV PH EHS
.12	Boral Resources	Scale Calibration		03/4/21	
.13		Drinking Water NoV			
.14	APCo	W.M. Robinson Radio License	FRN 0002073484		FCC
.16	Kentucky Power	Sewage Tank Permit	SHT-99-17-007	03/03/17	WV PH EHS
.17	AEP	General License	GL-700076-26	11-19-20	US NRC
.18	AEP	Kammer Power NoV	GW-25-034-TJA	4-10-19	WV DEP
.19	Franklin Real Estate	Sewage Tank Permit	STS-25-13-22	09/05/12	WV PH EHS
.20	AEP	Caretaker Status	FIN# PITMS402	10/19/12	USCG
.21	AEP	Public Notice – Barge Expansion	2005-1038	06/14/13	USACE
.22	Various	NPDES Permit Exceptions/NoV		Various	
.24	Indeterminable	Various Software Licenses		Indeterminable	
.25	Indeterminable	Radiation Source List			Indeterminable
.28	Kentucky Power	Mitchell Station NoV	NOV W18-25-032-TJA	11-28-18	WV DEP
.29	OPCo	Bridge Agreement		1-30-2006	WV DOT
.30	Indeterminable	Tritium Inventory			Indeterminable
.31		Steam boiler Inspection		8/29/19	WV DOL
.32		Steam boiler Inspection		6/11/20	WV DOL
.33		W.M.Robinson Cert. of Inspection		3/19/20	USCG
.34	Kentucky Power Company/Wheeling	Waterfront Facility Operations Guide		11/17/05 as revised	USACE

Data Room 2.4.3.1.	Entity	Permit / License	Number	Date	Agency
	Power Company				
.35	AEP	Right of Way	06-2013-0545	11/21/13	WV DOT
.36	AEP	Radiation Machine Registration	261600	02/25/24	WV HHR PH
.41 & .42	AEP	Scale Calibration		12/08/20	
.43		RR Crossing Permits			CSX
.44	AEP	Route 2 Utility Crossing Encroachment Permit Report	V-54658-19-00073	06/28/13	
.45	AEP	Route 2 Overhead Structure Encroachment Permit Report	V-54658-19-00073		

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)[87]

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power Company and Consolidation Coal Company, dated as of July 2, 2015[98]

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch
    - [Any new debt arrangements entered into as described in ~~section (v) of~~ Section 4.1(a)(v) of the Sellers Disclosure Letter][109]

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

[87] **Note to AEP**: To discuss impact on the Business of not obtaining these approvals.
[98] **Note to AEP**: To discuss whether failure to provide such notice would result in a breach of the agreement. Note to Purchaser: Signing of Transaction will be publicly announced so providing this notice should be inconsequential.
[109] **Note to AEP**: To discuss/confirm. Is this just intended to refer to interim bridge financing under the Utility Money Pool? Note to Purchaser: No, it is intended to cover each of the items set forth in Section 4.1(a)(v) – It is possible that all of the activity is achieved through the Money Pool, but it is also possible that a third party arrangement may be used.

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

  - [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

~~11~~10 **Note to AEP**: Discuss.

Section 2.5(a)
Financial Statements

See Attached

[Clean copies of the following to be attached]

Kentucky Power

December 31, 2019 and December 31, 2020
VDR 2.3.1 (2020 Audited Financial Statements KPC) (this document includes 2019 and 2020)

[*June 30, 2021*]
VDR 2.3.22 (KPCo 2021 2Q)

Kentucky TransCo

December 31, 2019 and December 31, 2020
VDR 2.3.21 (2020 FF1 AEP Kentucky Transmission Company.PDF) (this document includes 2019 and 2020)

[*June 30, 2021*]

~~[To be uploaded]~~VDR 2.3.41

Section 2.5(c)
Liabilities

None~~.~~

Section 2.7
Sufficiency of Assets

~~[12]~~

~~[Sellers are analyzing if any~~

The following real property ~~used in the business of the Acquired Companies~~ is held in the name of ~~either of the~~ Franklin ~~real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate,~~Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed prior to the Closing.~~]~~[13]

Site	Grantor	Deed Recording Info	County
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

~~[12] **Note to AEP**: Any Seller IP that is used by the Business but that will not either transfer or be subject to ongoing rights for Buyer (i.e., pursuant to a perpetual license or covenant not to sue) needs to be identified with specificity. To discuss impact and materiality that ceasing to use Seller IP will have on Business.~~

~~[13] **Note to AEP:** Please advise on outcome of review.~~

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- ~~The Shared Contracts set forth on the attached.~~
  ~~[Clean copies of the following to be attached]~~
  ~~Document at VDR 2.5.3.2[14]~~

- The Contracts listed under the remainder of Section 2.8(a)~~(iii)~~ of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- ~~Fuel and Transportation~~The Following Vendor Contracts:[11]

~~o~~ [redacted]

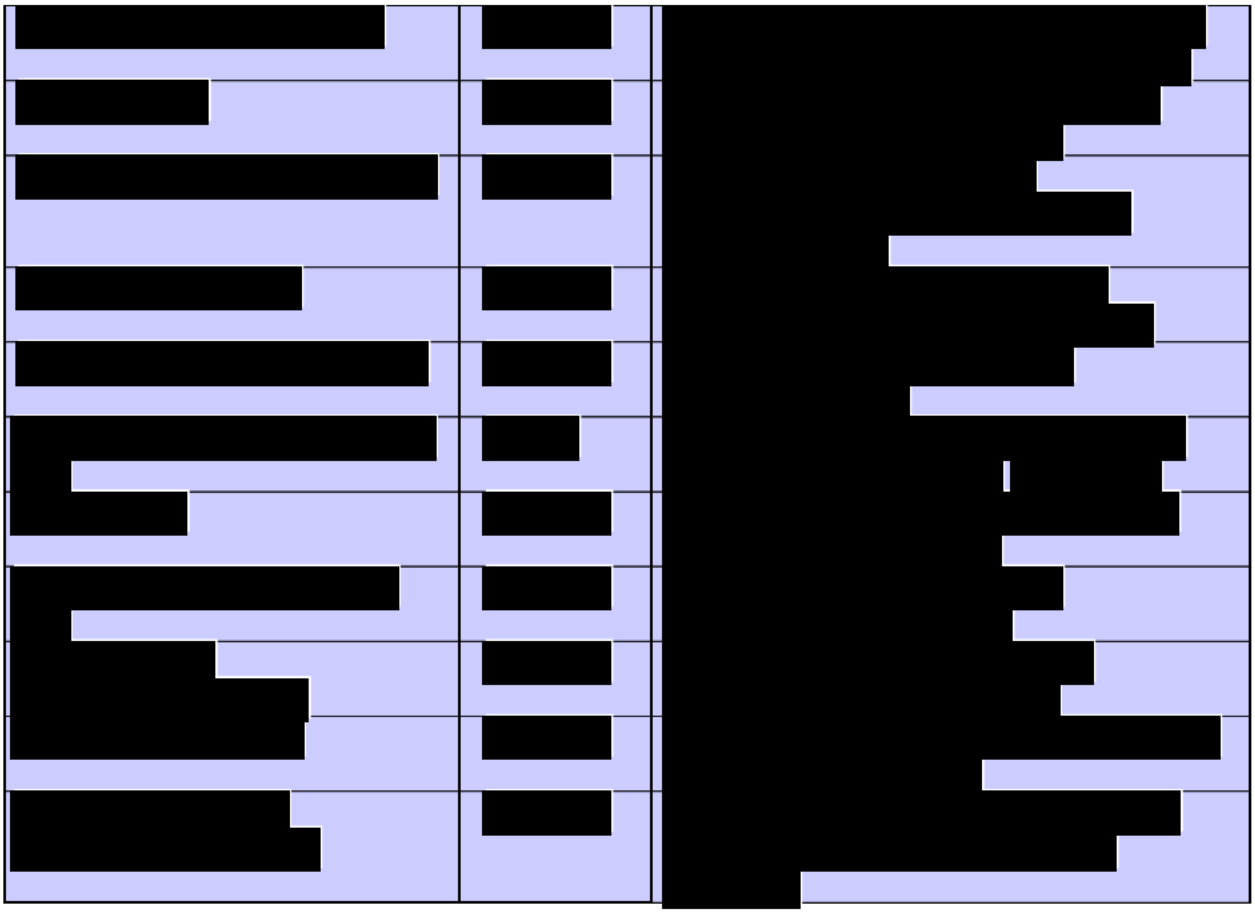
[redacted]

[redacted]

11 [redacted]

[redacted]

Vendor Name	[redacted]	PO Description
[redacted]	[redacted]	[redacted]



- **Consumables and Consumables Transportation**
  - Urea (Mitchell Plant)
    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.
  - Urea Terminal and Transportation (Mitchell Plant)
    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended~~15~~ (truck delivery to plant)
  - Hydrated Lime (Mitchell Plant)

- AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company~~, and AEP Consumable Purchase Order General Terms and Conditions dated 1/1/2015~~ (delivered by truck)[16]

- High Reactivity Hydrated Lime (Mitchell Plant)

  - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power~~,~~ and Mississippi Lime Company~~, and AEP Consumable Purchase Order General Terms and Conditions dated 1/1/2015~~

  - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)[17]

- Limestone (Mitchell Plant)

  - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC~~.~~

  - Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and ~~between AEPSC,~~ Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation ~~above~~ below)

- Trona (Mitchell Plant)

  - Agreement No~~.~~, AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and

[17] ~~Note to Draft: Disclosure subject to confidentiality limitations.~~

Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company
  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company
  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
  - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.2(a) of the Sellers Disclosure Letter
  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
  - AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC~~,~~ (including cancellation of the certificate of concurrence)
  - Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies~~,~~ dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for~~,~~ Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among ~~American Electric Power Service Corporation~~AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power ~~Company~~, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as ~~Agent~~agent for Kentucky Power ~~Company~~, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as ~~Agent~~agent for Kentucky Power ~~Company~~, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - ~~Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power Company, and Headwaters Resources, LLC~~

  - ~~Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Ohio Power Company, as amended by that certain Amendment No. 2010-1, dated August 2, 2010, as further amended by that certain Amendment No. 2012-1, dated February 20, 2012, as further amended by that certain Amendment No. 2013-1, dated June 5, 2013 (the "CertainTeed Contract")~~

  - ~~The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date~~

  - ~~Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company,~~

~~Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC~~

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- ~~AEP Open Access Transmission~~Reactive Supply and Voltage Control from Generation Service Tariff ~~(OATT)~~ dated June ~~20~~1, ~~2017~~2015 among Kentucky Power, Wheeling Power Company, ~~Ohio Power Company,~~ Appalachian Power Company~~,~~ and Indiana Michigan Power Company~~, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric~~ (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC~~,~~ (including ~~cancellation~~termination of the certificate of concurrence)

- FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

- Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

- AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

- The following agreements related to participation in PJM

    - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)
    - Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
    - Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
    - PJM Tariff

(iii)

- ~~Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014~~

- ~~Master Leasing Agreement with The Huntington National Bank dated December 29, 2008~~

- ~~Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018~~

- ~~Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008~~

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof ~~are hereby incorporated by reference~~

(iv)

~~None.~~

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

~~None.~~

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- Affiliate Agreement for Mitchell Plant Coal Pile Runoff dated January 1, 2014 between Kentucky Power and AEP Generation Resources Inc.

- Kammer Plant Operating Agreement dated January 1, 2014 among Kentucky Power, AEP Generation Resources Inc., and American Electric Power Service Corporation

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power,

Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company
- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996
- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
- Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, , and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014
- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008
- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018
- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM.

(xiii)

- **Fuel and Transportation Contracts**
  - Coal (Mitchell Plant)
    - [redacted]

- [redacted]

- Coal Transportation (Mitchell Plant)
  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including [redacted] Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)
  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)
  - FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
  - Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)
  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xiv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

(~~vii~~)xv)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter ~~are hereby incorporated by reference~~

(xvi)

~~(viii)~~

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.9
Registered Intellectual Property

Registered Trademarks[18][12]

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[19][13]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None[20][14]

Registered Copyrights

[

Title	Reg. #	Claimant (U.S. C.O.)

[18][12] **Note to AEP**: Please indicate whether and to what extent the Businesses uses BOLD, BREAKTHROUGH OVERHEAD LINE, EFFICIENCY NEVER LOOKED SO GOOD, TRANSMISSION WITH CURVE APPEAL, WHEELING POWER, or any other trademark owned by entities not in-scope of the transaction. Note to Purchaser: There is no material use by the businesses of the marks listed in this footnote or others owned by entities not in the scope of the transaction, except for those set forth in the SPA.

[19][13] Note to Draft: The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

[20][14] **Note to AEP**: Please indicate whether the Business practices any of the claims under U.S. patent number 9806690 (Subsynchronous oscillation relay) owned by AEP Transmission Holding Company, LLP. Note to Purchaser: No, this patent was only ever deployed in Texas.

[redacted]	[redacted]	[redacted]

]

[24][15] **Note to AEP**: Please provide information regarding this work and its materiality to the Business; it appears to be jointly owned together with a third party who has pledged it as collateral several times. [redacted]

Section 2.10
Legal Proceedings[22]

Pending Litigation:

1. Doug & Cindy Smith v. Kentucky Power Company, Carter Circuit Court Case No. 15-CI-0235.
2. Yvonne Cubbison v. Kentucky Power Company and Asplundh Tree Expert Company, Boyd Circuit Court Case No. 16-CI-00497.
3. Estate of Tony Craig v. Kentucky Power Company, American Electric Power Company, Inc. and Asplundh Tree Expert Company, Greenup Circuit Court Case No. 16-CI-00470.
4. Eric & Johnda Roseberry v. Chris Tucker, Kentucky Power Company and Manpower Company, Greenup Circuit Court Case No. 19-CI-00130.
5. Shannon Williams v. AWP, Inc., Tyler Collins, Kentucky Power Company and CNA Claimplus, Inc., Kenton Circuit Court Case No. 19-CI-00813.
6. Michael O'Connell and Chezrai Kiser v. Tyler Robinette, Pike Circuit Court Case No. 16-CI-00131.
7. Donald & Lois Gibson v. Kentucky Power Company, Magoffin Circuit Court Case No. 19-CI-00136.
8. Robert Peters v. Kentucky Power Company, Johnson Circuit Court Case No. 20-CI-00035.
9. Estate of Justin Miller v. Kentucky Power Company, Breathitt Circuit Court Case No. 17-CI-00087.
10. Truman Chappell v. Kentucky Power Company and Summit Helicopters, Leslie Circuit Court Case No. 20-CI-00093.
11. Dakota Adams v. Benson Harris v. Leslie County Telephone Company and Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00091.
12. Kentucky Farm Bureau Mutual Insurance Company a/s/o Wayne Hacker v. Kentucky Power Company, Leslie Circuit Court Case No. 20-CI-00154.
13. Big Sandy Company, L.P. v. Kentucky Power Company, Pike Circuit Court Case No. 21-CI-00309.
14. [23]Gilliam v. KPCo, No. 12-296 (Knott Circuit)
15. Riverside Generating Company, L.L.C. v. Kentucky Public Service Commission and Kentucky Power Company
16. Kentucky Power Company v. Kentucky Public Service Commission (Kentucky Supreme Court)
17. Kentucky Power Company v. American Resources Corp. No. 20-37 (Perry Circuit)
18. Kentucky Farm Bureau v. Kentucky Power Company No. 20154 (Leslie Circuit)
19. Kentucky Power Company v. Baker No. 19-459 (Perry Circuit)
20. Estate of Brandon Chapman: Unfiled claim associated with death of Brandon Chapman

[22] Note to Draft: The listed matters (other than the NSR Consent Decree) do not meet the current standard of Material Adverse Effect; however, they are being scheduled for placeholder purposes at this point.

[23] **Note to AEP**: For items 14-21, please provide a short case summary, an estimate of amount of liability/claims involved and status or please indicate VDR location where such items may be found. We would generally like a call to discuss all litigation matters on Schedule 2.10.

~~21.~~ TVS Cable Fatality and Injury: Unfiled claim associated with death and injury of TVS Cable employees~~.~~

~~Pending Asbestos Litigation:~~

~~[The individuals listed below have pending asbestos claims/pending litigation:~~[24][25]

~~1. Thomas Caudill~~
~~2. Glen Dale Brown (Jimmie Sue Brown & Chastity Brown)~~
~~3. Harold Harden~~
~~4. John William Fair~~
~~5. James Lambert~~
~~6. Billy (Sharlotte) Lyons~~
~~7. Gale McBride~~
~~8. James Mulvaney~~
~~9. Judith Neace~~
~~10. Michael J. Nedeff~~
~~11. O. David Durham~~
~~12. Willie Rhem~~
~~13. William (Teresa) Venham~~
~~14. William P. Maddux~~
~~15. William S. McGuire~~
~~16. Kelly Sr. Winebrenner (Darcy Lind)~~
~~17. Ronald Eugene Withrow]~~[26]

Other Pending Claims:

~~1.~~ Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power Company (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

~~2. In Re Fortress Resources LLC ((Eastern District of Kentucky Bankruptcy Court).~~

Orders:

1. ~~3.~~ The NSR Consent Decree~~.~~

~~[24] Note to Draft: The matters below are asserted against multiple Affiliates, including Kentucky Power, and other third parties.~~
~~[25] **Note to AEP:** To discuss list as does not align with public records.~~
~~[26] **Note to AEP:** Please provide additional specificity with regards to each claim, plaintiff and parties.~~

Section 2.12
Real Property~~[27]~~

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7 of the Sellers Disclosure Letter. Such real property will be transferred to Kentucky Power by deed prior to the Closing.

~~None.~~

~~[27] Note to Draft: Sellers are analyzing if any real property used in the business of the Acquired Companies is held in the name of either of the Franklin real property companies. If any is found, rights to such real property will be transferred to the applicable Acquired Company via title, lease, easement or other applicable land interest, as appropriate, prior to the Closing. **Note to AEP**: Please advise on outcome of review.~~

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan[28]
- American Electric Power System Excess Benefit Plan
- Central and South West System Special Executive Retirement Plan
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan[29][16]
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1[30]
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power System Stock Ownership Requirement Plan
- American Electric Power Annual Incentive Compensation Plan:[31]
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

[28] **Note to AEP**: Please list the American Electric Power System Excess Benefit Plan, and the American Electric Power System Supplemental Retirement Savings Plan.

[29][16] **Note to AEP**: Please list the American Electric Power Executive Severance Plan, and please list and provide the American Electric Power Service Corporation Change In Control Agreement mentioned in the Executive Severance Plan. Note to Purchaser: None of the employees implicated by this transaction have been issued a Change in Control Agreement.

[30] **Note to AEP**: Please list and provide all forms of award agreements and any material deviations therefrom under the 2015 Long-Term Incentive Plan

[31] **Note to AEP**: Please list the American Electric Power System Incentive Compensation Deferral Plan

Certain senior management members of Kentucky Power or Kentucky TransCo are parties to retention agreements that may trigger a payment if they remain employed by such companies through the Closing Date.~~32~~17

~~32~~17 Note to Draft: Additional detail about such retention agreements will be disclosed to bidders at a later date – Update - retention agreements have been added to the VDR.

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None~~.~~

(iii) [redacted]

(iv) ~~(iii)~~ None~~.~~

~~[33] Note to Draft: Additional detail about such retention agreements will be disclosed to bidders at a later stage of the process.~~

[redacted]

Section 2.14(a)
Labor Matters[~~35~~20]

[**See Attached**]

[Clean copies of the following to be attached]

Document at VDR 2.8.4 (Project Nickel Job Positions and Locations)

[~~35~~20] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section 2.14(b)
Labor Matters[3621]

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

[3621] **Note to AEP**: Note to Seller: subject to diligence. Purchaser needs to understand which CBAs apply only to in-scope employees, and which apply to both in-scope and out-of-scope employees.

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124~~37~~ 22

~~37~~22 Note to Draft: Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.15
Taxes

There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

- Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018.
- Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018.

[redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None~~.~~

Section 2.16(d)
Environmental Claims

None~~.~~

Section 2.16(e)
Assumed Environmental Liabilities

None

Section 2.19
Insurance

See Attached

[redacted]]

Section 4.1(a)
Conduct of Business[38][23]

(i)

[Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which was were purchased as a potential site for a power plant that was not pursued. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.][39] Kentucky Power has entered contracts for the sale of two parcels.[24][25]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

~~Kentucky Power is in process of completing the demolition of Unit 2 at Big Sandy, which is expected to be completed during 2021.~~

(ii)

None.

(iii) The execution of new contracts, contract amendments and contract terminations requiring consent and or notice as set forth on Sections 2.4(a) and 2.4(b) of the Sellers Disclosure Letter ~~are hereby incorporated by reference~~.[40][26]

[Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky ~~TranseCo~~TransCo and several other Affiliates, as amended.][41] Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.[27]

If the Master Leases are not ~~replaced with~~modified so as to allow for separate leases for Kentucky Power with respect to the vehicles and equipment leased by Kentucky Power, Kentucky Power intends to purchase currently leased personal property from the lessors thereof, including computers and vehicles, prior to the Closing so that such property will

[38][23] **Note to AEP**: Schedule subject to further review and discussion, including to provide for better guidance and parameters on what is contemplated for several of these items.

[redacted]

[39][25] **Note to AEP**: To be discussed.

[40][26] **Note to AEP**: New contracts/amendments/terminations should be subject to Purchaser's review and consent.

[41][27] **Note to AEP**: To be discussed.

be owned by the Acquired Companies at a purchase price not to exceed $[redacted] in the aggregate. Any such expenditures to purchase such property shall be included as capital expenditures in the calculation of the Capital Expenditures Amount. With respect to the vehicles and other personal property leased by Kentucky Power in connection with its operator role at Mitchell, Sellers intend to cause the transfer of~~,~~ the ~~lease by~~leases to, or to otherwise provide the benefit to ~~certain~~those assets covered under the Master Leases, to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company.[42]

[redacted]

[redacted]

[redacted]

[redacted] ~~**Note to AEP:** As proposed in the purchase agreement, please provide the expected amount of such a purchase.~~

[43][28] Note to Draft: An update will be provided at a later stage of the process.

[44] ~~**Note to AEP:** Please provide additional details and whether this will have any impact on Mitchell.~~

[Kentucky Power is preparing to ~~deploy~~submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced ~~Meeting~~Metering Infrastructure ~~and~~from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith.~~]~~ due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

~~[~~Kentucky Power is in the process of developing a 20 MW solar project for which it ~~is in process of, among other things, securing leased real property upon which the facility would be constructed~~has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM.~~]~~

~~[~~ Kentucky Power ~~is in the process of contracting with a second source for the 50% of the limestone supply needs of Mitchell for the August 1, 2021 through December 31, 2025 period on a month to month basis~~will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.~~]~~

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement~~. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date~~, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.[45~~29~~]

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.[46]

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

[45~~29~~] **Note to AEP:** To discuss, including discharge of security interest.

[46] ~~**Note to AEP**: Modifications should not reduce / discharge any obligations owed by the Seller Entities in favor of the Acquired Companies.~~

Kentucky Power intends to make expenditures and take ~~action~~actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements.[47] Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.[30]

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

~~(iii)~~

~~None~~

(iv)

None

(v)

None

(vi)

None

(vii)

~~[~~Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million with a comparable amount of short and/or long term debt issued to unaffiliated third parties or by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.~~]~~

~~[~~The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may issue new unrelated third party debt on market terms or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.~~]~~

~~[~~The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may issue new unrelated third party debt on market terms or draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.~~]~~

~~[47] Note to Draft: Subject to further review.~~

[30] Note to Draft: Subject to further review.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

~~(vi)~~

(viii)

None

~~(vii)~~

(ix)

None

~~(viii)~~

~~[AEP plans to cause~~

(x)

None

(xi)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, ~~to elect~~have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company intend to memorialize this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020.~~]~~

~~(ix~~

The Tax Accounting changes set forth on Section 2.15 of the Sellers Disclosure Letter

(xii)

None

~~(x)~~

~~[~~

(xiii)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.~~]~~

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(~~xi~~)
xiv)
None

~~(xii~~

(xv)
None

(xvi)
None

(vii)
None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See Attached.

[Provided separately]

Section 4.8(a)
Intercompany Arrangements

(a)

- The following agreements will be executed on or prior to the Closing Date:
  - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates.
  - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document.

- The following agreements (the "Interconnection Agreements") will be executed on or prior to the Closing Date:
  - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
  - Distribution Interconnection Agreement(s) between; (i) Kentucky Power and OhioAppalachian Power Company and (ii)
  - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years
  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power and, Wheeling Power Company, Appalachian Power Company , Indiana Michigan Power Company and AEPSC (the "Bridge PCA")

- The following Intercompany Arrangements will continue by their terms:
  - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company
  - [Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power Company, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to

terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective~~]~~[48]31

- ~~[~~Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power ~~Company]~~[49]32

[48]31 Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.
[49]32 Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342~~.~~

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement[~~50~~33]

- TransCo Intercompany Notes

- Any new debt arrangements entered into as set forth on section (v) of Section 4.1(a) of the Sellers Disclosure Letter

[~~50~~33] **Note to AEP**: Please provide or indicate VDR location. VDR 2.5.4.1

Section 4.17~~51~~34
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates~~52~~.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7 of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- ~~[~~Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of ~~either of the Franklin real property companies or~~ other AEP affiliates including ~~AESP~~AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing~~]~~.

- [redacted]

[redacted] **Note to AEP:** Parties to discuss and confirm in the context of transition planning.

~~52 **Note to AEP:** Please provide additional details on the cost anticipated to be associated with the lease.~~

- Such other items mutually identified and agreed to prior to ~~closing reasonably necessary to operate the Acquired Companies~~Closing, including, if applicable, the addition of ~~any~~ services and terms to ~~Exhibit A of~~ the Transition Services Agreement.

Section 4.18[53]35
NERC Registration

[redacted]

[redacted]

[redacted]

of

[53]35 **Note to AEP:** Parties to discuss and confirm in the context of transition planning.
[54]36 Note to Draft: As the TO/TOP, Purchaser will be subject to the PJM TO/TOP matrix.
[55]37 Note to Draft: Purchaser's Resource Planner (RP), Transmission Operator (TOP), and Transmission Planner (TP) registrations will require coordination with PJM.

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 5.19
AEPSC Employees

[To be provided] [~~56~~38]

[~~56~~38] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.

Section A(i)
Knowledge of Purchaser

Section A(ii)
Knowledge of Sellers

[To be provided]

Section A(iii)
Certain Permitted Encumbrances

None~~.~~

Section A(iv)
~~Required Regulatory~~Mitchell Plant Approvals

- ~~Approval of FERC under Section 203 of the FPA~~
- ~~Expiration of applicable waiting periods, or clearance or approval under, the HSR Act~~
- ~~Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)~~
- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218, if applicable, of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance[57]
- [Approval of FERC under Section 204 of the FPA and the KPSC under Kentucky Revised Statutes § 278.300][58][39]

[57] Note to Draft: CFIUS requirements to be included for non-U.S. bidders, if applicable. **Note to AEP**: To be included.

[58][39] **Note to AEP**: Pending settlement of financing plan prior to signing.

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:09:27 AM

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Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\3. Project Nickel - Sellers Disclosure Letter [Liberty 9-30-21].DOCX
Description	3. Project Nickel - Sellers Disclosure Letter [Liberty 9-30-21]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\4. Project Nickel - Sellers Disclosure Letter [AEP 10-8-2021].DOCX
Description	4. Project Nickel - Sellers Disclosure Letter [AEP 10-8-2021]
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Deletions	654
Moved from	46
Moved to	46
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Format changes	0
Total changes	1314

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to ~~[PURCHASER], a [●]~~Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of [●], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations[1]
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[2][1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power Company and Ohio Power Company)[3][2]
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)[4][3]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)

[1] ~~**Note to AEP**: To discuss impact on the Business of not obtaining any of these approvals that are not Required Regulatory Approvals.~~

[2][1] Note to Draft: This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

[3][2] Note to Draft: This agreement has expired by its terms and a corresponding FERC filing is required.

[4][3] Note to Draft: This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The following new agreements and/or submission applications:[5]

  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers

[5] ~~**Note to AEP:** To discuss inclusion of more specific filing timelines for certain of these documents.~~

- Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company[64]
- Distribution Interconnection Agreement between Kentucky Power and Appalachian Power Company
- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

o The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

o Withdrawal of Kentucky Power from the Utility Money Pool Agreement
o Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
o Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
o Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

o Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

[64] **Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role.

- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and

Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	**Entity**	**Permit / License**	**Number**	**Date**	**Agency**
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)[7]

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power Company and Consolidation Coal Company, dated as of July 2, 2015[8]

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch
    - ~~[Any new debt arrangements entered into as described in Section 4.1(a)(v) of the Sellers Disclosure Letter]~~[9]

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

[7] ~~**Note to AEP**: To discuss impact on the Business of not obtaining these approvals.~~
[8] ~~**Note to AEP**: To discuss whether failure to provide such notice would result in a breach of the agreement. Note to Purchaser: Signing of Transaction will be publicly announced so providing this notice should be inconsequential.~~
[9] ~~**Note to AEP**: To discuss/confirm. Is this just intended to refer to interim bridge financing under the Utility Money Pool? Note to Purchaser: No, it is intended to cover each of the items set forth in Section 4.1(a)(v). It is possible that all of the activity is achieved through the Money Pool, but it is also possible that a third party arrangement may be used.~~

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

  - [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

~~[10] Note to AEP: Discuss.~~

Section 2.5(a)
Financial Statements

(i) See Attached as Annex 2.5(a)(i)[5]

(ii) **See ~~Attached~~**
~~[Clean copies of the following to be~~ **attached**~~]~~ **as Annex 2.5(a)(ii)**

~~Kentucky Power~~

~~*December 31, 2019 and December 31, 2020*~~
~~VDR 2.3.1 (2020 Audited Financial Statements KPC) (this document includes 2019 and 2020)~~

~~[*June 30, 2021*]~~
~~VDR 2.3.22 (KPCo 2021 2Q)~~

~~Kentucky TransCo~~

~~*December 31, 2019 and December 31, 2020*~~
~~VDR 2.3.21 (2020 FF1 AEP Kentucky Transmission Company.PDF) (this document includes 2019 and 2020)~~

~~[*June 30, 2021*]~~
~~VDR 2.3.41~~

[5] Note to Seller: Please provide files to attach, with file names clearly labeled as Annex 2.5(a)(i) and Annex 2.5(a)(ii).

Section 2.5(c)
Liabilities

None

Section 2.7
Sufficiency of Assets

The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Site	Grantor	Deed Recording Info	County
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- [The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter][6]
- [Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter][7]
- The Following Vendor Contracts:~~11~~[8]

Vendor Name	Contract	PO Description
[redacted]	[redacted]	[redacted]

[6] [redacted]

[8] Note to Draft: Copies of these contracts are located at VDR 2.18.4.

		[redacted]	

- **Consumables and Consumables Transportation**

  - Urea (Mitchell Plant)

    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

  - Urea Terminal and Transportation (Mitchell Plant)

    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

  - Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

  - High Reactivity Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

    - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

  - Limestone (Mitchell Plant)

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)

  - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power Company and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.2(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian

Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

    - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

    - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

    - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

    - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

    - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

    - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

    - The following agreements related to participation in PJM

        - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)
        - Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
        - Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
        - PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

  Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power
- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- Affiliate Agreement for Mitchell Plant Coal Pile Runoff dated January 1, 2014 between Kentucky Power and AEP Generation Resources Inc.

- Kammer Plant Operating Agreement dated January 1, 2014 among Kentucky Power, AEP Generation Resources Inc., and American Electric Power Service Corporation
- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes
- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.
- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983
- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.[9]
- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company
- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent
- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent
- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company
- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996
- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana

[9] **Note to AEP**: Please provide or indicate VDR location.

Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
- Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)
- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power,

Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, ~~,~~ and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014
- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008
- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018
- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi) [10]

[10] Note to Seller: Please list.

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(~~xii~~xiii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM.

(~~xiii~~xiv)

- **Fuel and Transportation Contracts**

  - Coal (Mitchell Plant)

    - [redacted]

  - Coal Transportation (Mitchell Plant)

    - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by

Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

  - FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
  - Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(~~xiv~~xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC

(~~xv~~xvi) [11]

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(~~xvi~~xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

[11] Note to Seller: Please provide.

Section 2.9
Registered Intellectual Property

Registered Trademarks[12]

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[13][12]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None[14]

Registered Copyrights

[

Title	Reg. #	Claimant (U.S. C.O.)
[redacted]	[redacted]	[redacted]

[12] **Note to AEP**: Please indicate whether and to what extent the Businesses uses BOLD, BREAKTHROUGH OVERHEAD LINE, EFFICIENCY NEVER LOOKED SO GOOD, TRANSMISSION WITH CURVE APPEAL, WHEELING POWER, or any other trademark owned by entities not in scope of the transaction. Note to Purchaser: There is no material use by the businesses of the marks listed in this footnote or others owned by entities not in the scope of the transaction, except for those set forth in the SPA.

[13][12] Note to Draft: The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

[14] **Note to AEP**: Please indicate whether the Business practices any of the claims under U.S. patent number 9806690 (Subsynchronous oscillation relay) owned by AEP Transmission Holding Company, LLP. Note to Purchaser: No, this patent was only ever deployed in Texas.

[15] **Note to AEP**: Please provide information regarding this work and its materiality to the Business; it appears to be jointly owned together with a third party who has pledged it as collateral several times. [redacted]

]

Section 2.10
Legal Proceedings

Pending Litigation:

[None][TVS Cable Fatality and Injury: Unfiled claim associated with death and injury of TVS Cable employees][13]

Other Pending Claims:

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power Company (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Orders:

1. The NSR Consent Decree

[13] Note to Seller: This was described to Purchaser on diligence discussions as not being material. Please remove.

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7 of the Sellers Disclosure Letter. Such real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- Central and South West System Special Executive Retirement Plan[14]
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan~~[16]~~
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power System Stock Ownership Requirement Plan[15]
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

Certain senior management members of Kentucky Power or Kentucky TransCo, which correct and complete list of such senior management members has been provided to Purchaser prior to

[14] **Note to AEP**: Please provide the Central and South West System Special Executive Retirement Plan or its location in the VDR.

~~[16] **Note to AEP**: Please provide the American Electric Power Service Corporation Change In Control Agreement mentioned in the Executive Severance Plan. Note to Purchaser: None of the employees implicated by this transaction have been issued a Change in Control Agreement.~~

[15] **Note to AEP**: Please provide the American Electric Power System Stock Ownership Requirement Plan or its location in the VDR.

the date of the Agreement, are parties to retention agreements that may trigger a payment if they remain employed by such companies through the Closing Date[17][16]

[17][16] Note to Draft: Additional detail about such retention agreements will be disclosed to bidders at a later date – Update - retention agreements have been added to the VDR.

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None

(iii) [redacted]

(iv) None

[redacted]

Section 2.14(a)
Labor Matters[20]

[**See Attached**]

[Clean copies of the following to be attached]
Document at VDR 2.8.4 (Project Nickel Job Positions and Locations Annex 2.14(a)).[19]

[20] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.
[19] Note to Seller: Please provide file to be appended clearly named Annex 2.14(a).

Section 2.14(b)
Labor Matters[21]

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal[20]
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers – Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

[21] ~~**Note to AEP**: Note to Seller: subject to diligence. Purchaser needs to understand which CBAs apply only to in scope employees, and which apply to both in scope and out of scope employees.~~

[20] **Note to AEP**: Note to AEP: what is the expected timeframe for completion of these negotiations? Does AEP anticipate any difficulties reaching agreement and ratification with respect to the Master and/or any local CBA? Have any material changes to existing CBA terms been agreed to as of this date? If so, please provide a summary. Does AEP otherwise anticipate any material changes to the existing terms of the Master or any local CBA? If so, please provide a summary.

1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124~~22~~ 21

~~22~~21 Note to Draft: Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

Section 2.15
Taxes

There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

- Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
- Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

[redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

None

Section 2.16(e)
Assumed Environmental Liabilities

None

Section 2.19
Insurance

See Attached Annex 2.19[22]

[redacted]

[22] Note to Seller: Please provide file clearly labeled Annex 2.19

Section 4.1(a)
Conduct of Business[23]

(i)

Pursuant to [*specify contracts*], Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time. Kentucky Power has entered contracts for the sale of two parcels.[24][23][25]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii) The execution of new contracts, contract amendments and contract terminations requiring consent and or notice as set forth on Sections 2.4(a) and 2.4(b) of the Sellers Disclosure Letter.[26]

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.[27]

If the Master Leases are not modified so as to allow for separate leases for Kentucky Power with respect to the vehicles and equipment leased by Kentucky Power, Kentucky Power intends to purchase currently leased personal property from the lessors thereof, including computers and vehicles, prior to the Closing so that such property will be owned by the Acquired Companies at a purchase price not to exceed [redacted] in the aggregate. Any such expenditures to purchase such property shall be included as capital expenditures in the calculation of the Capital Expenditures Amount.[][24] With respect to the vehicles and other personal property leased by Kentucky Power in connection with its

[23] **Note to AEP**: Schedule subject to further review and discussion, including to provide for better guidance and parameters on what is contemplated for several of these items.
[24][23] Note to Draft: Contracts located at VDR 2.6.12.1 and 2.6.12.2.
[25] **Note to AEP**: To be discussed.
[26] **Note to AEP**: New contracts/amendments/terminations should be subject to Purchaser's review and consent.
[27] **Note to AEP**: To be discussed.
[24] Note to Seller: This is already addressed by 4.19

operator role at Mitchell, Sellers intend to cause the transfer of the leases to, or to otherwise provide the benefit to those assets covered under the Master Leases, to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company.

[redacted][28]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity

~~[28] Note to Draft: An update will be provided at a later stage of the process.~~

will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.[29]

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.[30][25]

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

(iv)

None

(v)

None

[29] ~~Note to AEP: To discuss, including discharge of security interest.~~

[30][25] Note to Draft: Subject to further review.

(vi)

None

(vii)

None

(viii)[26]

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million ~~with a comparable amount of short and/or long term debt issued to unaffiliated third parties or~~ by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may ~~issue new unrelated third party debt on market terms or~~ draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may ~~issue new unrelated third party debt on market terms or~~ draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

~~(viii)~~

~~None~~

(ix)

None

(x)

None

(xi)

None

[26] Note to Sellers: refinancing through debt other than Utility Money Pool Agreement should remain subject to Purchaser's consent (which as a reminder cannot be unreasonably withheld, conditioned or delayed).

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company intend to memorialize this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020.

The Tax Accounting changes set forth on items [ ][27] Section 2.15 of the Sellers Disclosure Letter

(~~xii~~xiv)

None

(~~xiii~~xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

[27] Note to Seller: Specify.

(~~xiv~~xvi)

None

(~~xv~~xvii)

None

~~(xvi~~
(xviii)

None

(~~vii~~xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See Attached~~.~~ as Annex 4.1(c)[28]

~~[Provided separately]~~

[28] Note to Seller: Please append file clearly labeled Annex 4.1(c)

Section 4.8~~(a)~~
Intercompany Arrangements

(a)(i)

None

(a)(ii)

- The following agreements will be executed on or prior to the Closing Date:
    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers, provided Kentucky Power continues to have rights to such radio towers, in order to maintain radio network coverage for AEP's Affiliates
    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document
    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
    - Distribution Interconnection Agreement between Kentucky Power and Appalachian Power Company
    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years[29]
    - Mitchell Plant O&M Agreement
    - Mitchell Plant Ownership Agreement
    - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA")[30]
- The following Intercompany Arrangements will continue by their terms:

[29] **Note to AEP**: Please provide or indicate VDR location.
[30] **Note to AEP**: Please provide or indicate VDR location.

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective[31]
- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power[32]

[31] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.
[32] Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement[33]

- TransCo Intercompany Notes

- ~~Any new debt arrangements entered into as set forth on section (v) of Section 4.1(a) of the Sellers Disclosure Letter~~

[33] ~~**Note to AEP**: Please provide or indicate VDR location. VDR 2.5.4.1~~

Section 4.17[34]
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7 of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

[34] ~~**Note to AEP:** Parties to discuss and confirm in the context of transition planning.~~

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18[35]
NERC Registration

[redacted]

[redacted]

[redacted]

[35] ~~**Note to AEP:** Parties to discuss and confirm in the context of transition planning.~~
[36] ~~Note to Draft: As the TO/TOP, Purchaser will be subject to the PJM TO/TOP matrix.~~
[37] ~~Note to Draft: Purchaser's Resource Planner (RP), Transmission Operator (TOP), and Transmission Planner (TP) registrations will require coordination with PJM.~~

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 5.19
AEPSC Employees

Attached as Annex 5.19[33]

~~[To be provided]~~ ~~[38]~~

[33] Note to Seller: Please append with file clearly labeled as Annex 5.19

~~[38] Note to Draft: A confidential list will be provided separately to bidders at a later stage of the process.~~

Section A(i)
Knowledge of Purchaser

Section A(ii)
Knowledge of Sellers

[To be provided][34]

[34] Note to Seller: Please provide

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218~~, if applicable,~~ of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement~~.~~, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance
- [Approval of FERC under Section 204 of the FPA ~~and the KPSC under Kentucky Revised Statutes § 278.300~~][39][35]

[39] ~~**Note to AEP**: Pending settlement of financing plan prior to signing.~~ [35] **Note to AEP**: We do not believe this will be necessary, but are confirming.

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:10:26 AM

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SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of [●], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:

    - The termination of the following agreements:

        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power ~~Company~~ and Ohio Power Company)~~[2]~~

    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:

        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)~~[3]~~[2]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 (the "Existing PCA") among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power

[1] ~~Note to Draft:~~ This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

[2] ~~Note to Draft: This agreement has expired by its terms and a corresponding FERC filing is required.~~

[3] ~~Note to Draft:~~[2] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The following new agreements and/or submission applications:

  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers
  - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power

Company and (iii) Kentucky Power and Indiana Michigan Power Company[43]

- ~~Distribution Interconnection Agreement between Kentucky Power and Appalachian Power Company~~ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

[43] **Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role. **Note to Purchaser:** These agreements will be bi-lateral and will be based on a PJM template.

- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and

Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR

Data Room	Entity	Permit / License	Number	Date	Agency
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power ~~Company~~ and Consolidation Coal Company, dated as of July 2, 2015

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

- [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

Section 2.5(a)
Financial Statements

(i) See ~~Attached as~~attached Annex 2.5(a)(i)[5]

(ii) See attached ~~as~~ Annex 2.5(a)(ii)

[5] ~~Note to Seller: Please provide files to attach, with file names clearly labeled as Annex 2.5(a)(i) and Annex 2.5(a)(ii).~~

Section 2.5(c)
Liabilities

None

Section 2.7(c)
Sufficiency of Assets

The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.:

Site	Grantor	Deed Recording Info	County
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

Approximately 40 surface acres and 100,000 acres of coal mineral rights in multiple parcels scattered across multiple counties of southwestern Indiana are deeded in multiple deeds to Indiana Franklin Realty, Inc. and are held on the books as undivided interests by Indiana Michigan Power Company ($4.7 million) and Kentucky Power ($1.1 million), and known as the "Posey Coal Fields". The property is not currently economically viable to mine and we do not anticipate this property having an economic benefit to either Indiana Michigan Power Company or Kentucky Power in the near future. The plan for the property is to leave the ownership as it is through Closing and address it in the future if conditions change or a sale becomes possible with Kentucky Power retaining its undivided interest.

[redacted]

- [redacted]

- ~~[~~The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter~~]~~[6]

- [redacted]

- ~~The Following Vendor Contracts:~~[8]

~~Vendor Name~~	~~Contract~~	~~PO Description~~
[redacted]	[redacted]	[redacted]
		~~KENTUCKY D~~
		[redacted]

[redacted]

- **Consumables and Consumables Transportation**

  - Urea (Mitchell Plant)

    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

  - Urea Terminal and Transportation (Mitchell Plant)

    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

  - Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

  - High Reactivity Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

    - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

  - Limestone (Mitchell Plant)

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)
    - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)
- Fly Ash (Mitchell Plant)
    - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)
- CertainTeed Gypsum (Mitchell Plant)
    - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**
    - Unit Power Agreement dated August 1, 1984 between Kentucky Power ~~Company~~ and AEP Generating Company
    - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company
    - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
    - ~~Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC~~
    - All Contracts relating to the 20 MW Solar Project under development – See Section ~~4.2~~4.1(a) of the Sellers Disclosure Letter
    - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
    - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian

Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

- [redacted]

- [redacted]

- [redacted]

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

  - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

  - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

  - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

  - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

  - The following agreements related to participation in PJM

    - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)

- Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
- Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
- PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.
- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.
- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.
- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020
- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032
- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A
- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes
- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- ~~The~~ Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date
- Existing PCA

- Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- ~~Affiliate Agreement for Mitchell Plant Coal Pile Runoff dated January 1, 2014 between Kentucky Power and AEP Generation Resources Inc.~~

- ~~Kammer Plant Operating Agreement dated January 1, 2014 among Kentucky Power, AEP Generation Resources Inc., and American Electric Power Service Corporation~~

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.[94]

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power,

[94] **Note to AEP**: Please provide or indicate VDR location. **Note to Purchaser**: VDR 2.5.4.18

Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company

- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996

- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)

- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

- ~~Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC~~

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- ~~Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company~~

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014
- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008
- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018
- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi) ~~10~~

Vendor Name	Contract	PO Description
[redacted]	[redacted]	[redacted]

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xiii)

~~10~~ ~~Note to Seller: Please list.~~

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM~~.~~

(xiv)

- **Fuel and Transportation Contracts**

  - Coal (Mitchell Plant)

  - Coal Transportation (Mitchell Plant)

    - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

  - Natural Gas (Big Sandy Plant)

    - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North

America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

  - FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
  - Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
  - ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the ~~Power Coordination Agreement dated June 15, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC~~ Existing PCA

(xvi) ~~11~~

None

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

~~11 Note to Seller: Please provide.~~

Section 2.8(b)
Material Contracts - Enforceability

[redacted]

Section 2.9
Company Registered Intellectual Property

Registered Trademarks

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[12][5]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None

Registered Copyrights

None

[

Title	Reg. #	Claimant (U.S. C.O.)
[redacted]	[redacted]	[redacted]

]

[12] Note to Draft:[5] The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Section 2.10
Legal Proceedings

Pending Litigation:

~~[None][TVS Cable Fatality and Injury: Unfiled claim associated with death and injury of TVS Cable employees]~~[13]

~~**Other Pending Claims:**~~

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power ~~Company~~ (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Threatened Claims:

None

Orders:

~~1.~~ The NSR Consent Decree

[13] ~~Note to Seller: This was described to Purchaser on diligence discussions as not being material. Please remove.~~

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7(c) of the Sellers Disclosure Letter. Such interest in real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- ~~Central and South West System Special Executive Retirement Plan~~[14]
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- ~~American Electric Power System Stock Ownership Requirement Plan~~[15]
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

[14] ~~**Note to AEP**: Please provide the Central and South West System Special Executive Retirement Plan or its location in the VDR.~~

[15] ~~**Note to AEP**: Please provide the American Electric Power System Stock Ownership Requirement Plan or its location in the VDR.~~

[redacted]

[redacted]

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) Certain senior management members of Kentucky Power or Kentucky TransCo, a complete list of which has been provided to Purchaser prior to the Effective Date, are parties to retention agreements that may trigger a payment if they remain employed by such companies through the Closing Date~~17~~.

(ii) None

(iii) The consummation of the transaction would be considered a Triggering Event under the Performance Share Award Agreements that have been effective for at least 6 months and issued to certain Acquired Employees who remain employed by an Acquired Company after the Closing Date. Upon a Triggering Event, a prorated portion of the performance shares remain outstanding (number of whole months from the Effective Date through the Closing Date divided by 36). The prorated portion that remains outstanding will vest as of the Vesting Date and will be subjected to the applicable Overall Performance Score for that award. The value of such performance shares will become payable after the conclusion of the three-year performance and vesting period.~~18~~

[redacted]

(iv) None

[redacted]

Section 2.13(g)
ERISA Title IV Plans

Kentucky Power is charged with a portion of the contributions to the American Electric Power System Retirement Plan, which is a Benefit Plan that is subject to Title IV of ERISA.

Section 2.13(h)
Post Service Medical Benefits

AEP offers retiree medical, dental and life insurance benefits for its employees meeting age and years of service requirements and who were hired prior to January 1, 2014, and a portion of the liability for this has been allocated to Kentucky Power Business Units.

Section 2.14(a)
Labor Matters

~~**See Attached** Annex 2.14(a).~~[19]

[redacted]

[19] ~~Note to Seller: Please provide file to be appended clearly named Annex 2.14(a).~~

Section 2.14(b)
Labor Matters

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal[20] and expected to be renewed before the end of 2021.
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit ~~— Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.~~[6]
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit ~~— Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.~~
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit~~— Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.~~
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers~~— Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.~~
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers~~ Pending negotiation of the IBEW Master, negotiations for renewal will commence on this agreement, subject to Section 4.1.~~

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

[20] ~~**Note to AEP**: Note to AEP: what is the expected timeframe for completion of these negotiations? Does AEP anticipate any difficulties reaching agreement and ratification with respect to the Master and/or any local CBA? Have any material changes to existing CBA terms been agreed to as of this date? If so, please provide a summary. Does AEP otherwise anticipate any material changes to the existing terms of the Master or any local CBA? If so, please provide a summary.~~

[6] Negotiations on the agreements listed in numbers 2-6 with the local bargaining units will commence at the conclusion of the renegotiation of the Master Agreement, and are expected to conclude in February 2022.

~~1.~~ Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[2] [1]7 =

[21] ~~Note to Draft:~~[7] Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.14(d)
Sexual Harassment

None

Section 2.15
Taxes

As described in Section 2.7(c) of the Sellers' Disclosure Letter, Kentucky Power has a beneficial interest in the Posey Coal Fields, which are comprised of 40 surface acres and 100,000 acres of coal mineral rights. Title to the Posey Coal Fields is vested in Indiana Franklin Realty, Inc. , which holds title to the property for the benefit of Kentucky Power and Indiana Michigan Power Company. Kentucky Power has not historically filed income tax returns in Indiana.

There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

- Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
- Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

[redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

~~None~~
AEP received a Notice of Violation dated October 19, 2021 from the Pennsylvania Department of Environmental Protection regarding a disposal of residual waste related to Mitchell Plant at the Arden Landfill in Chartiers Township, Washington County.

Section 2.16(e)
Assumed Environmental Liabilities

~~None~~

Asset Contribution Agreement between AEP Generation Resources Inc. and Newco Kentucky Inc. (merged into Kentucky Power) dated December 31, 2013 for the transfer of an undivided 50% interest in the Mitchell Plant

NSR Consent Decree

Section 2.19
Insurance

See ~~**Attached**~~attached Annex 2.19~~22~~

~~22 Note to Seller: Please provide file clearly labeled Annex 2.19~~

Section 4.1(a)
Conduct of Business

(i)

~~Pursuant to [*specify contracts*],~~ Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued with such disposition planned to be completed pursuant to the following contracts: (i) Contract for the Sale and Purchase of Real Estate dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia and (ii) Contract for the Sale and Purchase of Real Estate dated September 3, 2021 between Kentucky Power and James Meadows, Jennifer Meadows, Mathew Meadows and Jill Meadows. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time. [23]

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii)

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.

~~[][24] With respect to the vehicles and other personal property leased by Kentucky Power in connection with its operator role at Mitchell, Sellers intend to cause the transfer of the leases to, or to otherwise provide the benefit to those assets covered under the Master Leases, to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company.~~

[redacted]

[23] ~~Note to Draft: Contracts located at VDR 2.6.12.1 and 2.6.12.2.~~

[24] ~~Note to Seller: This is already addressed by 4.19~~

[redacted]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in

accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.~~[25]~~

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

(iv)

None

(v)

~~None~~

[Reserved]

(vi)

None

(vii)

None

(viii)~~[26]~~

~~[25] Note to Draft: Subject to further review.~~

~~[26] Note to Sellers: refinancing through debt other than Utility Money Pool Agreement should remain subject to Purchaser's consent (which as a reminder cannot be unreasonably withheld, conditioned or delayed).~~

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

(ix)

None

(x)

None

(xi)

None

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company ~~intend to memorialize~~have memorialized this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020. Kentucky Power intends to make any additional filings as necessary to memorialize such election out of Subchapter K.

The ~~Tax Accounting~~tax accounting changes set forth under "Accounting Changes" on ~~items [ ][27]~~ Section 2.15 of the Sellers Disclosure Letter

(xiv)

None

(xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(xvi)

None

(xvii)

None

(xviii)

None

(xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

~~[27] Note to Seller: Specify.~~

•

Section 4.1(c)
Capital Expenditures

See ~~Attached as~~attached Annex 4.1(c)[28]

[28] ~~Note to Seller: Please append file clearly labeled Annex 4.1(c)~~

Section 4.1(f)
Certain Wholesale Delivery Service

1. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Kentucky Power and Appalachian Power Company governing wholesale delivery of power across the Kentucky Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

2. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Appalachian Power Company and Kentucky Power governing wholesale delivery of power across the Appalachian Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

3. Kentucky Power and Appalachian Power Company cause the filing by PJM with FERC of each of the Interconnection and Local Delivery Service Agreements specified in items 1 and 2 above (the "ILDSAs"), pursuant to FPA Section 205 at least 90 days prior to the Closing Date to become effective as of the Closing Date.

Section 4.8(a)(i)
Intercompany Arrangements - Approvals

~~(a)(i)~~

~~None~~

The acceptances/approvals and notices set forth under the following headings as set forth on Section 2.4(a) of the Sellers Disclosure Letter (other than those listed under "The following new agreements and/or submission applications"):

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
- Post-Closing notice to FERC regarding:
- Approval of the WVPSC regarding the following:
- Notice to the Indiana Utility Regulatory Commission regarding the following:
- Approval of the Virginia State Corporation Commission regarding the following:

Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

Section 4.8(a)(ii)
Continuing Intercompany Arrangements

- The following agreements will be executed on or prior to the Closing Date:
    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers~~, provided Kentucky Power continues to have rights to such radio towers,~~ in order to maintain radio network coverage for AEP's Affiliates
    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document
    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
    - ~~Distribution Interconnection Agreement between Kentucky Power and Appalachian Power Company~~ ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years[29] (the "New Power Sale Agreement") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
    - Mitchell Plant O&M Agreement
    - Mitchell Plant Ownership Agreement
    - ~~New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA")~~[30] Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)
- The following Intercompany Arrangements will continue by their terms:
    - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
    - Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian

[29] ~~**Note to AEP**: Please provide or indicate VDR location.~~
[30] ~~**Note to AEP**: Please provide or indicate VDR location.~~

Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective[31]

~~o Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power[32]~~

[31] ~~Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.~~

[32] ~~Note to Draft: Subject to further review by Sellers. Parties to discuss, including in the context of Mitchell.~~

Section 4.8(b)
Intercompany Arrangements – Power Coordination

Bridge PCA

Kentucky Power will enter into the PCA Bridge with AEP and/or its Affiliates (all parties to the PCA Bridge other than Kentucky Power, the "AEP Parties"). The Bridge PCA will address the following issues:

- Kentucky Power's participation in the PJM Fixed Resource Requirement with the other AEP Companies and related sales of capacity from the AEP's FRR plan into the PJM Reliability Pricing Model Market. AEP FRR plan participation is anticipated to be through the 2023/2024 PJM Planning Year and the 2024/2025 PJM Planning Year if the Closing Date occurs after the FRR commitment date for that Planning Year in mid-April 2022.

- Kentucky Power remaining a transmission owner and load serving entity for its service territory in PJM and in AEP's Load Zone in PJM through January 1 of the calendar year after it is no longer a party to AEP's FRR plan.

- Kentucky Power's sharing in the costs and benefits of the coal, energy, capacity and related contracts entered into by AEP to support the AEP Parties (where that includes Kentucky Power) until those positions expire or are wound-down by AEP.

- The commitments that will be made by AEP on behalf of Kentucky Power in the normal course of business related to its participation in PJM, such as nominating and managing the Auction Revenue Rights or Financial Transmission Rights for transmission paths associated with Kentucky Power's service of its retail and wholesale customer loads.

- Establishment of stand-alone PJM accounts for Kentucky Power's PJM settlement activity and transitioning charges and credits for Kentucky Power activity from AEP to Kentucky Power.

New Power Sale Agreement

In connection with the Bridge PCA and the amount of capacity Kentucky Power will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years, on or prior to the Closing Date, Kentucky Power will enter into an agreement or agreements with AEP or an Affiliate to purchase from AEP or an Affiliate the amount of capacity it believes it will need to meet the amount of its FRR commitment that is in excess of its expected generation for those periods (estimates of approximately 183 MW and 170 MW, respectively).

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement

- TransCo Intercompany Notes

Section 4.17
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7(c) of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

[8] **Note to Purchaser**: October 13 Presentation removed as it is duplicative of the August 23 presentation and creates unclear obligations on the parties, particularly the "Principles" and "Roadmap" slides.

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18
NERC Registration

[redacted]

[redacted]

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

Section 4.20(e)
Conner Run Indemnity

[redacted]

Section 4.22
Insurance Claims

None

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 9.2(a)
Certain Indemnification Matters

Wholesale delivery service by and between Kentucky Power and Appalachian Power Company prior to the effective date of each of the ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter) as established by FERC in an order accepting each of the ILDSAs; provided that the indemnifiable Losses pursuant to Section 9.2(a)(iv) shall exclude Losses resulting from any penalties, fines or refunds imposed subsequent to any self-reporting with FERC by any Party relating to the failure of Kentucky Power to have filed agreements relating to deliveries across the Kentucky Power or Appalachian Power Company systems made prior to the effective date of each of the ILDSAs as established by FERC.

Section 5.19
~~AEPSC~~Support Employees

~~Attached as Annex 5.19[33]~~

[redacted]

~~[33] Note to Seller: Please append with file clearly labeled as Annex 5.19~~

Section A(i)
Knowledge of Purchaser

Section A(ii)
Knowledge of Sellers

Charles E. Zebula, Executive Vice President, Portfolio Optimization

Stephan T. Haynes, Senior Vice President, Strategy & Transformation

Mark J. Leskowitz, Vice President, Regulated Fuel Procurement

John C. Crespo, Deputy General Counsel

James D. Fawcett, Managing Director, Labor Relations

Brett Mattison, President and COO, Kentucky Power

Gary O. Spitznogle, Vice President, Environmental Services

Marty Rosenthal, Senior Counsel, Legal – Tax

Gina Mazzei-Smith, Associate General Counsel & Chief Compliance Officer

~~[To be provided]~~[34]

[34] ~~Note to Seller: Please provide~~

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218 of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance
- ~~[Approval of FERC under Section 204 of the FPA]~~[35]

~~[35] **Note to AEP**: We do not believe this will be necessary, but are confirming.~~

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:10:59 AM

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Deletions	199
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Moved to	5

Style changes	0
Format changes	0
Total changes	423

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of October [~~•~~26], 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power and Ohio Power Company)
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)[2]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 (the "Existing PCA") among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

[1] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[2] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The following new agreements and/or submission applications:

  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers
  - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company[3]

[3] ~~**Note to AEP:** Specify if these will be bi-lateral or will one entity be the provider and one the customer. If so, specify who will serve in each role. **Note to Purchaser:** These agreements will be bi-lateral and will be based on a~~

- ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC,

~~specify who will serve in each role.~~ ~~**Note to Purchaser:**~~ ~~These agreements will be bi-lateral and will be based on a PJM template.~~

as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	**Entity**	**Permit / License**	**Number**	**Date**	**Agency**
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power and Consolidation Coal Company, dated as of July 2, 2015

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

- [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

Section 2.5(a)
Financial Statements

(i) See attached Annex 2.5(a)(i)

(ii) See attached Annex 2.5(a)(ii)

Section 2.5(c)
Liabilities

None

Section 2.7(c)
Sufficiency of Assets

1. The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing:

Site	Grantor	Deed Recording Info	County
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

2. [Approximately 40 surface acres and 100,000 acres of coal mineral rights in multiple parcels scattered across multiple counties of southwestern Indiana are deeded in multiple deeds to Indiana Franklin Realty, Inc. and are held on the books as undivided interests by Indiana Michigan Power Company ($4.7 million) and Kentucky Power ($1.1 million), and known as the "Posey Coal Fields" (the "Posey Coal Fields"). The property is not currently economically viable to mine and we do not anticipate this property having an economic benefit to either Indiana Michigan Power Company or Kentucky Power in the near future. The plan for the property is to leave the ownership as it is through Closing and address it in the future if conditions change or a sale becomes possible with Kentucky Power retaining its undivided interest.][3]

[3] **Note to AEP**: We request (i) an indemnity covering all Liabilities with respect to the Posey Coal Fields (including without limitation any Liability in respect of Taxes related thereto) and any Environmental Claims) and (ii) that all rights, title and interest, including all Liabilities of Kentucky Power, with respect to the Posey Coal Fields be transferred to AEP prior to Closing.

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Consumables and Consumables Transportation**

  - Urea (Mitchell Plant)

    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

  - Urea Terminal and Transportation (Mitchell Plant)

    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

  - Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

  - High Reactivity Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

    - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

  - Limestone (Mitchell Plant)

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

- Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)

  - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.1(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

- [redacted]

(ii)

- **Municipality Contracts**

    - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

    - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

    - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

    - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

    - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

    - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

    - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

    - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

    - The following agreements related to participation in PJM

        - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)

- Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
- Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
- PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Existing PCA

- Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.[4]

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission

[4] ~~**Note to AEP**: Please provide or indicate VDR location. **Note to Purchaser**: VDR 2.5.4.18~~

Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company

- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996

- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)

- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x) [4]

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

[4] Note to Seller: Please cross reference VDR folder including the relevant material real property leases.

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi)

Vendor Name	Contract	PO Description
[redacted]	[redacted]	[redacted]

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xiii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM

(xiv)

- **Fuel and Transportation Contracts**

    - Coal (Mitchell Plant)

- Coal Transportation (Mitchell Plant)

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

- FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
- Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Existing PCA

(xvi)

None

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.8(b)
Material Contracts - Enforceability

Section 2.9
Company Registered Intellectual Property

Registered Trademarks

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[5]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None

Registered Copyrights

None

[5] The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Section 2.10
Legal Proceedings

Pending Litigation:

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Threatened Claims:

None

Orders:

The NSR Consent Decree

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7(c) of the Sellers Disclosure Letter. Such interest in real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None

(iii) [redacted]

(iv) None

Section 2.13(g)
ERISA Title IV Plans

Kentucky Power is charged with a portion of the contributions to the American Electric Power System Retirement Plan, which is a Benefit Plan that is subject to Title IV of ERISA.

Section 2.13(h)
Post Service Medical Benefits

AEP offers retiree medical, dental and life insurance benefits for its employees meeting age and years of service requirements and who were hired prior to January 1, 2014, and a portion of the liability for this has been allocated to Kentucky Power Business Units.

Section 2.14(a)
Labor Matters

[redacted]

Section 2.14(b)
Labor Matters

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal and expected to be renewed before the end of 2021.
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit [6]
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[7]

[6] Negotiations on the agreements listed in numbers 2-6 with the local bargaining units will commence at the conclusion of the renegotiation of the Master Agreement, and are expected to conclude in February 2022.
[7] Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.14(d)
Sexual Harassment

None

Section 2.15
Taxes

1. As described in Section 2.7(c) of the Sellers' Disclosure Letter, Kentucky Power has a beneficial interest in the Posey Coal Fields, which are comprised of 40 surface acres and 100,000 acres of coal mineral rights. Title to the Posey Coal Fields is vested in Indiana Franklin Realty, Inc. , which holds title to the property for the benefit of Kentucky Power and Indiana Michigan Power Company. Kentucky Power has not historically filed income tax returns in Indiana.

2. There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

3. [redacted]

- [redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

AEP received a Notice of Violation dated October 19, 2021 from the Pennsylvania Department of Environmental Protection regarding a disposal of residual waste related to Mitchell Plant at the Arden Landfill in Chartiers Township, Washington County. [8]

[8] **Note to AEP**: Please provide additional information, including a copy of the notice and related documentation.

Section 2.16(e)
Assumed Environmental Liabilities

Asset Contribution Agreement between AEP Generation Resources Inc. and Newco Kentucky Inc. (merged into Kentucky Power) dated December 31, 2013 for the transfer of an undivided 50% interest in the Mitchell Plant

Kentucky Power has assumed certain liabilities under Environmental Law as a result of the NSR Consent Decree

Section 2.19
Insurance

See attached Annex 2.19

Section 4.1(a)
Conduct of Business

(i)

Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued with such disposition planned to be completed pursuant to the following contracts: (i) Contract for the Sale and Purchase of Real Estate dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia and (ii) Contract for the Sale and Purchase of Real Estate dated September 3, 2021 between Kentucky Power and James Meadows, Jennifer Meadows, Mathew Meadows and Jill Meadows. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii)

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.

[redacted]

[redacted]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

(iv)

None

(v)

[Reserved]

(vi)

None

(vii)

None

(viii)

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power

may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

(ix)

None

(x)

None

(xi)

None

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company have memorialized this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020. Kentucky Power intends to make any additional filings as necessary to memorialize such election out of Subchapter K.

The tax accounting changes set forth under "Accounting Changes" on Section 2.15 of the Sellers Disclosure Letter

(xiv)

None

(xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(xvi)

None

(xvii)

None

(xviii)

None

(xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See attached Annex 4.1(c)

Section 4.1(f)
Certain Wholesale Delivery Service

1. [At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Kentucky Power and Appalachian Power Company governing wholesale delivery of power across the Kentucky Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

2. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Appalachian Power Company and Kentucky Power governing wholesale delivery of power across the Appalachian Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

3. Kentucky Power and Appalachian Power Company cause the filing by PJM with FERC of each of the Interconnection and Local Delivery Service Agreements specified in items 1 and 2 above (the "ILDSAs"), pursuant to FPA Section 205 at least 90 days prior to the Closing Date to become effective as of the Closing Date.][9]

4. Kentucky Power shall transfer to any Seller or any of its Affiliates (other than the Acquired Companies) all of its right, title and interest, including all Liabilities, with respect to the Posey Coal Fields pursuant to a deed or other instrument of transfer in form reasonably acceptable to Purchaser.

[9] Note to Seller: Subject to review by Purchaser.

Section 4.8(a)(i)
Intercompany Arrangements - Approvals

The acceptances/approvals and notices set forth under the following headings as set forth on Section 2.4(a) of the Sellers Disclosure Letter (other than those listed under "The following new agreements and/or submission applications"):

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
- Post-Closing notice to FERC regarding:
- Approval of the WVPSC regarding the following:
- Notice to the Indiana Utility Regulatory Commission regarding the following:
- Approval of the Virginia State Corporation Commission regarding the following:

Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

Section 4.8(a)(ii)
Continuing Intercompany Arrangements

- The following agreements will be executed on or prior to the Closing Date on terms and conditions reasonably satisfactory to Purchaser:
    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates
    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document
    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
    - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years (the "New Power Sale Agreement") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
    - The parties thereto will enter into Mitchell Plant O&M Agreement in accordance with the Agreement
    - The parties thereto will enter into the Mitchell Plant Ownership Agreement in accordance with the Agreement
    - Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)
- The following Intercompany Arrangements will continue by their terms:
    - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
    - Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective

Section 4.8(b)
Intercompany Arrangements – Power Coordination

Bridge PCA

Kentucky Power will enter into the PCA Bridge with AEP and/or its Affiliates (all parties to the PCA Bridge other than Kentucky Power, the "AEP Parties") on terms and conditions reasonably acceptable to Purchaser. The Bridge PCA will address the following issues:

- Kentucky Power's participation in the PJM Fixed Resource Requirement with the other AEP Companies and related sales of capacity from the AEP's FRR plan into the PJM Reliability Pricing Model Market. AEP FRR plan participation is anticipated to be through the 2023/2024 PJM Planning Year and the 2024/2025 PJM Planning Year if the Closing Date occurs after the FRR commitment date for that Planning Year in mid-April 2022.

- Kentucky Power remaining a transmission owner and load serving entity for its service territory in PJM and in AEP's Load Zone in PJM through January 1 of the calendar year after it is no longer a party to AEP's FRR plan.

- [Kentucky Power's sharing in the costs and benefits of the coal, energy, capacity and related contracts entered into by AEP to support the AEP Parties (where that includes Kentucky Power) until those positions expire or are wound-down by AEP.][10]

- The commitments that will be made by AEP on behalf of Kentucky Power in the normal course of business related to its participation in PJM, such as nominating and managing the Auction Revenue Rights or Financial Transmission Rights for transmission paths associated with Kentucky Power's service of its retail and wholesale customer loads.

- Establishment of stand-alone PJM accounts for Kentucky Power's PJM settlement activity and transitioning charges and credits for Kentucky Power activity from AEP to Kentucky Power.

New Power Sale Agreement

In connection with the Bridge PCA and the amount of capacity Kentucky Power will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years, on or prior to the Closing Date, Kentucky Power will enter into an agreement or agreements on terms and conditions reasonably acceptable to Purchaser, with AEP or an Affiliate to purchase from AEP or an Affiliate the amount of capacity it believes it will need to meet the amount of its FRR

[10] **Note to AEP**: To discuss. We thought we had the right to unilaterally terminate upon 12 months' advance notice. Please provide additional information on the positions and expirations.

commitment that is in excess of its expected generation for those periods (estimates of approximately 183 MW and 170 MW, respectively).

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement

- TransCo Intercompany Notes

Section 4.17
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7(c) of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

[redacted]

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18
NERC Registration

[redacted]

- [redacted] of

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

Section 4.20(e)
Conner Run Indemnity

Section 4.22
Insurance Claims

None

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 9.2(a)
Certain Indemnification Matters

1. [Wholesale delivery service by and between Kentucky Power and Appalachian Power Company prior to the effective date of each of the ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter) as established by FERC in an order accepting each of the ILDSAs; provided that the indemnifiable Losses pursuant to Section 9.2(a)(iv) shall exclude Losses resulting from any penalties, fines or refunds imposed subsequent to any self-reporting with FERC by any Party relating to the failure of Kentucky Power to have filed agreements relating to deliveries across the Kentucky Power or Appalachian Power Company systems made prior to the effective date of each of the ILDSAs as established by FERC.][12]

2. Item 2 of Section 2.7(c) of this Sellers Disclosure Letter and Item 1 of Section 2.15 of this Sellers Disclosure Letter are incorporated herein by reference, including all Liabilities with respect to the Posey Coal Fields (including any Liability in respect of Environmental Claims and any Taxes).

[12] Note to Seller: Subject to review.

Section 5.19
Support Employees

[redacted]

Section A(i)
Knowledge of Purchaser

Kevin Melnyk, Senior Vice President, Regulated Infrastructure Development

Sarah Knowlton, General Counsel, Liberty Utilities

Section A(ii)
Knowledge of Sellers

Charles E. Zebula, Executive Vice President, Portfolio Optimization

Stephan T. Haynes, Senior Vice President, Strategy & Transformation

Mark J. Leskowitz, Vice President, Regulated Fuel Procurement

John C. Crespo, Deputy General Counsel

James D. Fawcett, Managing Director, Labor Relations

Brett Mattison, President and COO, Kentucky Power

Gary O. Spitznogle, Vice President, Environmental Services

Marty Rosenthal, Senior Counsel, Legal – Tax

Gina Mazzei-Smith, Associate General Counsel & Chief Compliance Officer

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218 of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:11:46 AM

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Moved to	0

Style changes	0
Format changes	0
Total changes	73

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of October ~~[~~26~~]~~, 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power and Ohio Power Company)
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)[2]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 (the "Existing PCA") among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

[1] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[2] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The following new agreements and/or submission applications:

  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers
  - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
  - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)

- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	**Entity**	**Permit / License**	**Number**	**Date**	**Agency**
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power and Consolidation Coal Company, dated as of July 2, 2015

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

- [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

Section 2.5(a)
Financial Statements

(i) See attached Annex 2.5(a)(i)

(ii) See attached Annex 2.5(a)(ii)

Section 2.5(c)
Liabilities

None

Section 2.7(c)
Sufficiency of Assets

1. The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing:

Site	**Grantor**	**Deed Recording Info**	**County**
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

2. ~~[~~Approximately 40 surface acres and 100,000 acres of coal mineral rights in multiple parcels scattered across multiple counties of southwestern Indiana are deeded in multiple deeds to Indiana Franklin Realty, Inc. and are held on the books as undivided interests by Indiana Michigan Power Company (≃$4.7 million) and Kentucky Power (≃$1.1 million), and known as the ~~"~~Posey Coal Fields~~"~~ (the "Posey Coal Fields"). The property is not currently economically viable to mine and we do not anticipate this property having an economic benefit to either Indiana Michigan Power Company or Kentucky Power in the near future. The ~~plan for the property is to leave the ownership as it is through~~Posey Coal Fields will be removed from the books of Kentucky Power prior to Closing ~~and address it in the future if conditions change or a sale becomes possible with Kentucky Power retaining its undivided interest~~as described on in Section 4.1(f) of the Sellers Disclosure Letter.~~]~~[3]

[3] ~~**Note to AEP**: We request (i) an indemnity covering all Liabilities with respect to the Posey Coal Fields (including without limitation any Liability in respect of Taxes related thereto) and any Environmental Claims) and (ii) that all rights, title and interest, including all Liabilities of Kentucky Power, with respect to the Posey Coal Fields be transferred to AEP prior to Closing.~~

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Consumables and Consumables Transportation**

  - Urea (Mitchell Plant)

    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

  - Urea Terminal and Transportation (Mitchell Plant)

    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

  - Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

  - High Reactivity Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

    - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

  - Limestone (Mitchell Plant)

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

- Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)

  - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.1(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

- [redacted]

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

  - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

  - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

  - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

  - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

  - The following agreements related to participation in PJM

    - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)

- Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
- Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
- PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Existing PCA

- Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company,

Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company
- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996
- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas

Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x) [4]

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

[4] ~~Note to Seller: Please cross reference VDR folder including the relevant material real property leases.~~

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi)

Vendor Name	[redacted]	PO Description
[redacted] LLC	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]
[redacted]	[redacted]	[redacted]

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xiii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM

(xiv)

- **Fuel and Transportation Contracts**
  - Coal (Mitchell Plant)

- Coal Transportation (Mitchell Plant)

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

- FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
- Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)
  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Existing PCA

(xvi)

None

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.8(b)
Material Contracts - Enforceability

Section 2.9
Company Registered Intellectual Property

Registered Trademarks

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[~~5~~3]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None

Registered Copyrights

None

[~~5~~3] The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Section 2.10
Legal Proceedings

Pending Litigation:

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Threatened Claims:

None

Orders:

The NSR Consent Decree

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7(c) of the Sellers Disclosure Letter. Such interest in real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None

(iii) [redacted]

(iv) None

[redacted]

Section 2.13(g)
ERISA Title IV Plans

Kentucky Power is charged with a portion of the contributions to the American Electric Power System Retirement Plan, which is a Benefit Plan that is subject to Title IV of ERISA.

Section 2.13(h)
Post Service Medical Benefits

AEP offers retiree medical, dental and life insurance benefits for its employees meeting age and years of service requirements and who were hired prior to January 1, 2014, and a portion of the liability for this has been allocated to Kentucky Power Business Units.

Section 2.14(a)
Labor Matters

[redacted]

Section 2.14(b)
Labor Matters

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal and expected to be renewed before the end of 2021.
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit [6]5
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[7]6

[6]5 Negotiations on the agreements listed in numbers 2-6 with the local bargaining units will commence at the conclusion of the renegotiation of the Master Agreement, and are expected to conclude in February 2022.
[7]6 Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.14(d)
Sexual Harassment

None

Section 2.15
Taxes

1. As described in Section 2.7(c) of the Sellers' Disclosure Letter, Kentucky Power has a beneficial interest in the Posey Coal Fields, which are comprised of 40 surface acres and 100,000 acres of coal mineral rights. Title to the Posey Coal Fields is vested in Indiana Franklin Realty, Inc. , which holds title to the property for the benefit of Kentucky Power and Indiana Michigan Power Company. Kentucky Power has not historically filed income tax returns in Indiana.

2. There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

3. [redacted]

- [redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

AEP received a Notice of Violation dated October 19, 2021 ("NOV")from the Pennsylvania Department of Environmental Protection regarding a disposal of residual waste related to Mitchell Plant at the Arden Landfill in Chartiers Township, Washington County.[8] Kentucky Power sold a Mitchell Plant transformer to a third party for scrap. The third party sent the industrial waste from the process to scrap the transformer to a Pennsylvania landfill, allegedly without a proper waste profile. Kentucky Power intends to respond to the NOV indicating that it was not the owner or generator of the waste. Kentucky Power does not believe that the result of the NOV is likely to result in a Materially Adverse Effect.

[8] ~~**Note to AEP**: Please provide additional information, including a copy of the notice and related documentation.~~

Section 2.16(e)
Assumed Environmental Liabilities

Asset Contribution Agreement between AEP Generation Resources Inc. and Newco Kentucky Inc. (merged into Kentucky Power) dated December 31, 2013 for the transfer of an undivided 50% interest in the Mitchell Plant

Kentucky Power has assumed certain liabilities under Environmental Law as a result of the NSR Consent Decree

Section 2.19
Insurance

See attached Annex 2.19

Section 4.1(a)
Conduct of Business

(i)

Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued with such disposition planned to be completed pursuant to the following contracts: (i) Contract for the Sale and Purchase of Real Estate dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia and (ii) Contract for the Sale and Purchase of Real Estate dated September 3, 2021 between Kentucky Power and James Meadows, Jennifer Meadows, Mathew Meadows and Jill Meadows. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii)

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.

[redacted]

[redacted]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

(iv)

None

(v)

[Reserved]

(vi)

None

(vii)

None

(viii)

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power

may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

(ix)

None

(x)

None

(xi)

None

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company have memorialized this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020. Kentucky Power intends to make any additional filings as necessary to memorialize such election out of Subchapter K.

The tax accounting changes set forth under "Accounting Changes" on Section 2.15 of the Sellers Disclosure Letter

(xiv)

None

(xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(xvi)

None

(xvii)

None

(xviii)

None

(xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See attached Annex 4.1(c)

Section 4.1(f)
Certain ~~Wholesale Delivery Service~~Additional Matters

1. ~~[~~At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Kentucky Power and Appalachian Power Company governing wholesale delivery of power across the Kentucky Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

2. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Appalachian Power Company and Kentucky Power governing wholesale delivery of power across the Appalachian Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

3. Kentucky Power and Appalachian Power Company cause the filing by PJM with FERC of each of the Interconnection and Local Delivery Service Agreements specified in items 1 and 2 above (the "ILDSAs"), pursuant to FPA Section 205 at least 90 days prior to the Closing Date to become effective as of the Closing Date.~~]~~[9]

4. Kentucky Power shall transfer at net book value to any Seller or any of its Affiliates (other than the Acquired Companies) all of its right, title and interest, including all Liabilities, with respect to the Posey Coal Fields pursuant to a ~~deed or other instrument of transfer in form reasonably acceptable to Purchaser~~book entry on each party's accounting records.

[9] ~~Note to Seller: Subject to review by Purchaser.~~

5.

Section 4.8(a)(i)
Intercompany Arrangements - Approvals

The acceptances/approvals and notices set forth under the following headings as set forth on Section 2.4(a) of the Sellers Disclosure Letter (other than those listed under "The following new agreements and/or submission applications"):

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
- Post-Closing notice to FERC regarding:
- Approval of the WVPSC regarding the following:
- Notice to the Indiana Utility Regulatory Commission regarding the following:
- Approval of the Virginia State Corporation Commission regarding the following:

Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

Section 4.8(a)(ii)
Continuing Intercompany Arrangements

- The following agreements will be executed on or prior to the Closing Date on terms and conditions reasonably satisfactory to Purchaser:
    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates
    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document
    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
    - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years (the "New Power Sale Agreement") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
    - Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)
- ~~o~~ The parties thereto will enter into the Mitchell Plant O&M Agreement in accordance with the Agreement
- ~~o~~ The parties thereto will enter into the Mitchell Plant Ownership Agreement in accordance with the Agreement
    - ~~o Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)~~
- The following Intercompany Arrangements will continue by their terms:
    - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
    - Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky

Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective

Section 4.8(b)
Intercompany Arrangements – Power Coordination

Bridge PCA

Kentucky Power will enter into the PCA Bridge with AEP and/or its Affiliates (all parties to the PCA Bridge other than Kentucky Power, the "AEP Parties") on terms and conditions reasonably acceptable to Purchaser. The Bridge PCA will address the following issues:

- Kentucky Power's participation in the PJM Fixed Resource Requirement with the other AEP Companies and related sales of capacity from the AEP's FRR plan into the PJM Reliability Pricing Model Market. AEP FRR plan participation is anticipated to be through the 2023/2024 PJM Planning Year and the 2024/2025 PJM Planning Year if the Closing Date occurs after the FRR commitment date for that Planning Year in mid-April 2022.

- Kentucky Power remaining a transmission owner and load serving entity for its service territory in PJM and in AEP's Load Zone in PJM through January 1 of the calendar year after it is no longer a party to AEP's FRR plan.

- ~~[~~Kentucky Power's sharing in the costs and benefits of the coal, energy, capacity and related contracts entered into by AEP to support the AEP Parties (where that includes Kentucky Power) until those positions expire or are wound-down by AEP.~~]~~[10]

- The commitments that will be made by AEP on behalf of Kentucky Power in the normal course of business related to its participation in PJM, such as nominating and managing the Auction Revenue Rights or Financial Transmission Rights for transmission paths associated with Kentucky Power's service of its retail and wholesale customer loads.

- Establishment of stand-alone PJM accounts for Kentucky Power's PJM settlement activity and transitioning charges and credits for Kentucky Power activity from AEP to Kentucky Power.

New Power Sale Agreement

In connection with the Bridge PCA and the amount of capacity Kentucky Power will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years, on or prior to the Closing Date, Kentucky Power will enter into an agreement or agreements on terms and conditions reasonably acceptable to Purchaser, with AEP or an Affiliate to purchase from AEP or an Affiliate the amount of capacity it believes it will need to meet the amount of its FRR

~~[10] **Note to AEP**: To discuss. We thought we had the right to unilaterally terminate upon 12 months' advance notice. Please provide additional information on the positions and expirations.~~

commitment that is in excess of its expected generation for those periods (estimates of approximately 183 MW and 170 MW, respectively).

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement

- TransCo Intercompany Notes

Section 4.17
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7(c) of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

[redacted]

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18
NERC Registration

[redacted]

[redacted]

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

Section 4.20(e)
Conner Run Indemnity

[redacted]

Section 4.22
Insurance Claims

None

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 9.2(a)
Certain Indemnification Matters

1. [Wholesale delivery service by and between Kentucky Power and Appalachian Power Company prior to the effective date of each of the ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter) as established by FERC in an order accepting each of the ILDSAs; provided that the indemnifiable Losses pursuant to Section 9.2(a)(iv) shall exclude Losses resulting from any penalties, fines or refunds imposed subsequent to any self-reporting with FERC by any Party relating to the failure of Kentucky Power to have filed agreements relating to deliveries across the Kentucky Power or Appalachian Power Company systems made prior to the effective date of each of the ILDSAs as established by FERC.][12]

2. Item 2 of Section 2.7(c) of this Sellers Disclosure Letter and Item 1 of Section 2.15 of this Sellers Disclosure Letter are incorporated herein by reference, including allAll Liabilities with respect to the Posey Coal Fields (including any Liability in respect of Environmental Claims and any Taxes, including Item 1 of Section 2.15 of the Sellers Disclosure Letter).

[12] Note to Seller: Subject to review.

Section 5.19
Support Employees

[redacted]

Section A(i)
Knowledge of Purchaser

Kevin Melnyk, Senior Vice President, Regulated Infrastructure Development

Sarah Knowlton, General Counsel, Liberty Utilities

Section A(ii)
Knowledge of Sellers

Charles E. Zebula, Executive Vice President, Portfolio Optimization

Stephan T. Haynes, Senior Vice President, Strategy & Transformation

Mark J. Leskowitz, Vice President, Regulated Fuel Procurement

John C. Crespo, Deputy General Counsel

James D. Fawcett, Managing Director, Labor Relations

Brett Mattison, President and COO, Kentucky Power

Gary O. Spitznogle, Vice President, Environmental Services

Marty Rosenthal, Senior Counsel, Legal – Tax

Gina Mazzei-Smith, Associate General Counsel & Chief Compliance Officer

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218 of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance

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Description	7. Project Nickel - Sellers Disclosure Letter [Liberty 10-26-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Disclosure Schedules\8. Project Nickel - Sellers Disclosure Letter [AEP 10-26-2021].DOCX
Description	8. Project Nickel - Sellers Disclosure Letter [AEP 10-26-2021]
Rendering set	Standard

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Format changes	0
Total changes	103

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of October 26, 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power and Ohio Power Company)
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)[2]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 (the "Existing PCA") among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

[1] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[2] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

o The following new agreements and/or submission applications:

- Mitchell Plant O&M Agreement
- Mitchell Plant Ownership Agreement
- New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
- Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
- New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
- New market-based rate tariff for Kentucky Power
- New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers
- Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
- ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)

- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	**Entity**	**Permit / License**	**Number**	**Date**	**Agency**
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power and Consolidation Coal Company, dated as of July 2, 2015

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

- [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

Section 2.5(a)
Financial Statements

(i) See attached Annex 2.5(a)(i)

(ii) See attached Annex 2.5(a)(ii)

Section 2.5(c)
Liabilities

None

Section 2.7(c)
Sufficiency of Assets

1. The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing:

Site	**Grantor**	**Deed Recording Info**	**County**
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

2. Approximately 40 surface acres and 100,000 acres of coal mineral rights in multiple parcels scattered across multiple counties of southwestern Indiana are deeded in multiple deeds to Indiana Franklin Realty, Inc. and are held on the books as undivided interests by Indiana Michigan Power Company (~$4.7 million) and Kentucky Power (~$1.1 million), and known as the Posey Coal Fields (the "Posey Coal Fields"). The property is not currently economically viable to mine and we do not anticipate this property having an economic benefit to either Indiana Michigan Power Company or Kentucky Power in the near future. The Posey Coal Fields will be removed from ~~the books of~~ Kentucky Power prior to Closing as described on in Section 4.1(f) of the Sellers Disclosure Letter.

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Consumables and Consumables Transportation**

    - Urea (Mitchell Plant)

        - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

    - Urea Terminal and Transportation (Mitchell Plant)

        - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
        - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

    - Hydrated Lime (Mitchell Plant)

        - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

    - High Reactivity Hydrated Lime (Mitchell Plant)

        - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

        - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

    - Limestone (Mitchell Plant)

        - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

- Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)

  - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company

  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company

  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC

  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.1(a) of the Sellers Disclosure Letter

  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

- [redacted]

(ii)

- **Municipality Contracts**

    - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

    - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

    - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

    - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

    - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

    - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

    - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

    - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

    - The following agreements related to participation in PJM

        - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)

- Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
- Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
- PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Existing PCA

- Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company,

Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company
- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996
- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas

Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi)

Vendor Name	Contract	PO Description
[redacted]	[redacted]	[redacted]

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xiii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM

(xiv)

- **Fuel and Transportation Contracts**
    - Coal (Mitchell Plant)

- Coal Transportation (Mitchell Plant)

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

- FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
- Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Existing PCA

(xvi)

None

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.8(b)
Material Contracts - Enforceability

Section 2.9
Company Registered Intellectual Property

Registered Trademarks

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[3]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None

Registered Copyrights

None

[3] The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Section 2.10
Legal Proceedings

Pending Litigation:

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Threatened Claims:

None

Orders:

The NSR Consent Decree

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7(c) of the Sellers Disclosure Letter. Such interest in real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None

(iii) [redacted]

[redacted]

(iv) None

[redacted]

Section 2.13(g)
ERISA Title IV Plans

Kentucky Power is charged with a portion of the contributions to the American Electric Power System Retirement Plan, which is a Benefit Plan that is subject to Title IV of ERISA.

Section 2.13(h)
Post Service Medical Benefits

AEP offers retiree medical, dental and life insurance benefits for its employees meeting age and years of service requirements and who were hired prior to January 1, 2014, and a portion of the liability for this has been allocated to Kentucky Power Business Units.

Section 2.14(a)
Labor Matters

[redacted]

Section 2.14(b)
Labor Matters

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal and expected to be renewed before the end of 2021.
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit [5]
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[6]

[5] Negotiations on the agreements listed in numbers 2-6 with the local bargaining units will commence at the conclusion of the renegotiation of the Master Agreement, and are expected to conclude in February 2022.
[6] Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.14(d)
Sexual Harassment

None

Section 2.15
Taxes

1. As described in Section 2.7(c) of the Sellers' Disclosure Letter, Kentucky Power has a beneficial interest in the Posey Coal Fields, which are comprised of 40 surface acres and 100,000 acres of coal mineral rights. Title to the Posey Coal Fields is vested in Indiana Franklin Realty, Inc. , which holds title to the property for the benefit of Kentucky Power and Indiana Michigan Power Company. Kentucky Power has not historically filed income tax returns in Indiana.

2. There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

3. [redacted]

- [redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

AEP received a Notice of Violation dated October 19, 2021 ("NOV")from the Pennsylvania Department of Environmental Protection regarding a disposal of residual waste related to Mitchell Plant at the Arden Landfill in Chartiers Township, Washington County. Kentucky Power sold a Mitchell Plant transformer to a third party for scrap. The third party sent the industrial waste from the process to scrap the transformer to a Pennsylvania landfill, allegedly without a proper waste profile. Kentucky Power intends to respond to the NOV indicating that it was not the owner or generator of the waste. ~~Kentucky Power does not believe that the result of the~~The NOV is not likely to result in ~~a Materially Adverse Effect~~any material Liability**.**

Section 2.16(e)
Assumed Environmental Liabilities

Asset Contribution Agreement between AEP Generation Resources Inc. and Newco Kentucky Inc. (merged into Kentucky Power) dated December 31, 2013 for the transfer of an undivided 50% interest in the Mitchell Plant

Kentucky Power has assumed certain liabilities under Environmental Law as a result of the NSR Consent Decree

Section 2.19
Insurance

See attached Annex 2.19

Section 4.1(a)
Conduct of Business

(i)

Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued with such disposition planned to be completed pursuant to the following contracts: (i) Contract for the Sale and Purchase of Real Estate dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia and (ii) Contract for the Sale and Purchase of Real Estate dated September 3, 2021 between Kentucky Power and James Meadows, Jennifer Meadows, Mathew Meadows and Jill Meadows. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii)

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.

[redacted]

[redacted]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

(iv)

None

(v)

[Reserved]

(vi)

None

(vii)

None

(viii)

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power

may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

(ix)

None

(x)

None

(xi)

None

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company have memorialized this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020. Kentucky Power intends to make any additional filings as necessary to memorialize such election out of Subchapter K.

The tax accounting changes set forth under "Accounting Changes" on Section 2.15 of the Sellers Disclosure Letter

(xiv)

None

(xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(xvi)

None

(xvii)

None

(xviii)

None

(xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See attached Annex 4.1(c)

Section 4.1(f)
Certain Additional Matters

1. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Kentucky Power and Appalachian Power Company governing wholesale delivery of power across the Kentucky Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

2. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Appalachian Power Company and Kentucky Power governing wholesale delivery of power across the Appalachian Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

3. Kentucky Power and Appalachian Power Company cause the filing by PJM with FERC of each of the Interconnection and Local Delivery Service Agreements specified in items 1 and 2 above (the "ILDSAs"), pursuant to FPA Section 205 at least 90 days prior to the Closing Date to become effective as of the Closing Date.

4. Kentucky Power shall transfer at net book value to any Seller or any of its Affiliates (other than the Acquired Companies), and such Seller or its Affiliates shall accept and fully assume all of ~~its~~Kentucky Power's right, title and interest, including all Liabilities, with respect to the Posey Coal Fields, which is to be effected pursuant to a book entry on each party's accounting records together with customary documentation of such assumption of Liabilities reasonably satisfactory to Purchaser.

5.

Section 4.8(a)(i)
Intercompany Arrangements - Approvals

The acceptances/approvals and notices set forth under the following headings as set forth on Section 2.4(a) of the Sellers Disclosure Letter (other than those listed under "The following new agreements and/or submission applications"):

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
- Post-Closing notice to FERC regarding:
- Approval of the WVPSC regarding the following:
- Notice to the Indiana Utility Regulatory Commission regarding the following:
- Approval of the Virginia State Corporation Commission regarding the following:

Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

Section 4.8(a)(ii)
Continuing Intercompany Arrangements

- The following agreements will be executed on or prior to the Closing Date on terms and conditions reasonably satisfactory to Purchaser:

    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates

    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document

    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company

    - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)

    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years (the "New Power Sale Agreement") (see description on Section 4.8(b) of the Sellers Disclosure Letter)

    - Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)

- The parties thereto will enter into the Mitchell Plant O&M Agreement in accordance with the Agreement

- The parties thereto will enter into the Mitchell Plant Ownership Agreement in accordance with the Agreement

- The following Intercompany Arrangements will continue by their terms:

    - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
    - Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective

Section 4.8(b)
Intercompany Arrangements – Power Coordination

Bridge PCA

Kentucky Power will enter into the PCA Bridge with AEP and/or its Affiliates (all parties to the PCA Bridge other than Kentucky Power, the "AEP Parties") on terms and conditions reasonably acceptable to Purchaser. The Bridge PCA will address the following issues:

- Kentucky Power's participation in the PJM Fixed Resource Requirement with the other AEP Companies and related sales of capacity from the AEP's FRR plan into the PJM Reliability Pricing Model Market. AEP FRR plan participation is anticipated to be through the 2023/2024 PJM Planning Year and the 2024/2025 PJM Planning Year if the Closing Date occurs after the FRR commitment date for that Planning Year in mid-April 2022.

- Kentucky Power remaining a transmission owner and load serving entity for its service territory in PJM and in AEP's Load Zone in PJM through January 1 of the calendar year after it is no longer a party to AEP's FRR plan.

- Kentucky Power's sharing in the costs and benefits of the coal, energy, capacity and related contracts entered into by AEP to support the AEP Parties (where that includes Kentucky Power) until those positions expire or are wound-down by AEP.

- The commitments that will be made by AEP on behalf of Kentucky Power in the normal course of business related to its participation in PJM, such as nominating and managing the Auction Revenue Rights or Financial Transmission Rights for transmission paths associated with Kentucky Power's service of its retail and wholesale customer loads.

- Establishment of stand-alone PJM accounts for Kentucky Power's PJM settlement activity and transitioning charges and credits for Kentucky Power activity from AEP to Kentucky Power.

New Power Sale Agreement

In connection with the Bridge PCA and the amount of capacity Kentucky Power will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years, on or prior to the Closing Date, Kentucky Power will enter into an agreement or agreements on terms and conditions reasonably acceptable to Purchaser, with AEP or an Affiliate to purchase from AEP or an Affiliate the amount of capacity it believes it will need to meet the amount of its FRR commitment that is in excess of its expected generation for those periods (estimates of approximately 183 MW and 170 MW, respectively).

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement

- TransCo Intercompany Notes

Section 4.17
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7(c) of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18
NERC Registration

[redacted]

[redacted]

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

Section 4.20(e)
Conner Run Indemnity

[redacted]

Section 4.22
Insurance Claims

None

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 9.2(a)
Certain Indemnification Matters

1. Wholesale delivery service by and between Kentucky Power and Appalachian Power Company prior to the effective date of each of the ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter) as established by FERC in an order accepting each of the ILDSAs; provided that the indemnifiable Losses pursuant to Section 9.2(a)(iv) shall exclude Losses resulting from any penalties, fines or refunds imposed subsequent to any self-reporting with FERC by any Party relating to the failure of Kentucky Power to have filed agreements relating to deliveries across the Kentucky Power or Appalachian Power Company systems made prior to the effective date of each of the ILDSAs as established by FERC.

2. All Liabilities with respect to the Posey Coal Fields (including any Liability in respect of Environmental Claims and any Taxes, including Item 1 of Section 2.15 of the Sellers Disclosure Letter).

Section 5.19
Support Employees

[redacted]

Section A(i)
Knowledge of Purchaser

Kevin Melnyk, Senior Vice President, Regulated Infrastructure Development

Sarah Knowlton, General Counsel, Liberty Utilities

Section A(ii)
Knowledge of Sellers

Charles E. Zebula, Executive Vice President, Portfolio Optimization

Stephan T. Haynes, Senior Vice President, Strategy & Transformation

Mark J. Leskowitz, Vice President, Regulated Fuel Procurement

John C. Crespo, Deputy General Counsel

James D. Fawcett, Managing Director, Labor Relations

Brett Mattison, President and COO, Kentucky Power

Gary O. Spitznogle, Vice President, Environmental Services

Marty Rosenthal, Senior Counsel, Legal – Tax

Gina Mazzei-Smith, Associate General Counsel & Chief Compliance Officer

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218 of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:12:52 AM

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Description	8. Project Nickel - Sellers Disclosure Letter [AEP 10-26-2021]
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Moved to	0

Style changes	0
Format changes	0
Total changes	13

SELLERS DISCLOSURE LETTER

This disclosure letter ("Sellers Disclosure Letter") is delivered by American Electric Power Company, Inc., a New York corporation, and AEP Transmission Company, LLC, a Delaware limited liability company (collectively, "Sellers"), to Liberty Utilities Co., a Delaware corporation ("Purchaser"), pursuant to the Stock Purchase Agreement (the "Agreement"), dated as of October 26, 2021 by and among Sellers and Purchaser. Unless the context otherwise requires, terms used in this Sellers Disclosure Letter have the meanings given to the same terms in the Agreement.

Notwithstanding anything to the contrary contained in this Sellers Disclosure Letter or in the Agreement, the information and disclosures contained in this Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by the Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in the Agreement. Nothing in this Sellers Disclosure Letter constitutes an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

This Sellers Disclosure Letter confirms the disclosure by Sellers of information as follows:

Section 2.4(a)
Consents and Approvals; No Violations
(Governmental Entity)

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
    - The termination of the following agreements:
        - Mitchell Plant Operating Agreement dated December 31, 2014 among Kentucky Power, Wheeling Power Company and AEPSC (the "Existing Mitchell Plant Operating Agreement"), which will be replaced by the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as of the Closing Date
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC[1]
        - Fourth Amended and Restated PJM Services and Cost Allocation Agreement dated February 29, 2012 between Buckeye Power, Inc. and AEPSC as agent for the AEP Eastern Operating Companies (Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power and Ohio Power Company)
    - The withdrawal or severance of Kentucky Power from the following agreements/tariffs:
        - Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)[2]
        - System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
        - Power Coordination Agreement dated June 15, 2015 (the "Existing PCA") among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
        - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

[1] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.
[2] This agreement may either be terminated in its entirety or amended to remove Kentucky Power's participation, depending on the timing of the settlement of the last open transaction.

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)
- Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)
- AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

- The following new agreements and/or submission applications:

  - Mitchell Plant O&M Agreement
  - Mitchell Plant Ownership Agreement
  - New Power Coordination Transition (Bridge) Agreement among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (the "Bridge PCA") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
  - Transmission Rates for Kentucky Power and Kentucky TransCo reflected in Attachment H to the PJM Tariff
  - New Reactive Supply and Voltage Control from Generation Service Tariff for the share of the Mitchell Plant owned by Kentucky Power and the Big Sandy Plant
  - New market-based rate tariff for Kentucky Power
  - New Open Access Transmission Tariff for Kentucky Power's lower voltage transmission system used to provide local delivery services to certain wholesale transmission customers
  - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company, (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
  - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)

- Assignment or amendment as applicable of existing Generation Interconnection Agreements for Big Sandy and Mitchell

- The amendment of the following agreements to remove Kentucky Power and add Wheeling Power Company as a party:

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
  - Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

- Post-Closing notice to FERC regarding:

  - Withdrawal of Kentucky Power from the Utility Money Pool Agreement
  - Removal of AEPSC and Affiliates from EKPC, LG&E/KU, Olive Hill and Vanceburg Interconnection Agreements
  - Removal of AEPSC and Affiliates from Olive Hill and Vanceburg Full Requirement Electric Service Agreements
  - Change in Status filing and amendment to the AEP Operating Companies Market Based Rate Tariff to remove Kentucky Power

- Approval of the WVPSC regarding the following:

  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
  - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Notice to the Indiana Utility Regulatory Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Approval of the Virginia State Corporation Commission regarding the following:

    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
    - Amendment to remove Kentucky Power and add Wheeling Power Company as a party to the Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

- Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

- Notice to ReliabilityFirst Corporation to remove Kentucky Power and Kentucky TransCo from NERC registration NCR00682

- Notice to Purchaser of the existence of NSR Consent Decree, with a copy of such notice to the plaintiffs pursuant to ¶191 of the NSR Consent Decree at least 60 days prior to sale

- Filing with and, approval of, the U.S. District Court for the Southern District of Ohio of a motion to amend the NSR Consent Decree to add Purchaser as a Defendant pursuant to ¶192 of the NSR Consent Decree

- Applicable notice/approval for an operational procedure document (the "Operational Procedure Document") between AEPSC, as agent for certain AEP Affiliates, and one or both of the Acquired Companies, to become effective as of the Closing or as soon as reasonably practicable thereafter, to coordinate line outages and maintenance work to be performed by AEPSC or an Affiliate (or an Acquired Company) for the following transmission lines: Hanging Rock – Jefferson (765kV, I&M to OH), Big Sandy – INEZ (138kV, KP to KP), Big Sandy – Thelma (138kV, KP to KP)

- Notice of change of operator/revision to the certificate of representation for the Title IV Acid Rain Permit within 30 days of Closing

- Transfer of Sewage Tank Permit SHT-99-13-017 to Kentucky Power

- The transfer of the permits in the following tables to Wheeling Power Company in connection with the change in the operator role at Mitchell from Kentucky Power to Wheeling Power Company:

Environmental Permits

Data Room	**Entity**	**Permit / License**	**Number**	**Date**	**Agency**
2.7.2.1.4	AEPGR	Minor NSR Permit	R13-2608E	05/12/14	WVDEP
2.7.2.1.5	KPC	Title IV Acid Rain Permit	R33-3948-2022-5A	03/12/19	WVDEP
2.7.2.1.6	KPC	Title V Permit	R30-05100005-2019	12/08/20	WVDEP
2.7.2.1.7	AEPGR	Class II General Air Permit	G60-C057A	08/08/14	WVDEP
		Title IV Cert of Representation			USEPA
		GHG Cert of Representation			USEPA
2.7.2.5.3	OPC	NPDES (Plant)	WV0005304	12/30/10	WVDEP
2.7.2.5.4	OPC	NPDES Permit (Solid Waste)	WV0116742	05/29/13	WVDEP
		RCRA Hazardous Waste ID#	WVD-988-554-943		WVDEP
		Mitchell - Drinking Water	WV9925015		WV DHHR
2.7.2.7.1	OPC	Barge Mooring Capacity	94007	03/09/94	USACE
2.7.2.7.10	OPC	Maintenance Dredging Permit	2003-265	01/31/14	USACE

Other Permits

Data Room	Entity	Permit / License	Number	Date	Agency
2.4.3.1.10	KPC	W. M. Robinson Boat Documentation	600742	10/26/20 (expires 11/30/21)	USCG
2.4.3.1.14	APC	W. M. Robinson FCC Radio License	FRN 0002073484	04/05/18 (expires 05/05/28)	FCC
2.4.3.6.1	KPC	License for Cardinal #1	FRN 0001794379 File Number 0007436666	08/31/16 (expires 01/03/24)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007436654	08/31/16 (expires 02/28/26)	FCC
2.4.3.6.1	KPC	License for Multiple Antennas Used for Mitchell Plant	FRN 0001794379 File Number 0007848815	07/11/17 (expires 09/24/27)	FCC
2.4.3.6.1	KPC	License for Antenna Used for Mitchell Plant	FRN 0001794379 File Number 0007436665	08/31/16 (expires 10/06/21)	FCC

Section 2.4(b)
Consents and Approvals; No Violations
(Contractual)

- Kentucky Power anticipates notifying Consolidation Coal Company of the transactions contemplated by the Agreement in respect of the Conner Run Impoundment Transition and Joint Use Operating Agreement by and between Kentucky Power and Consolidation Coal Company, dated as of July 2, 2015

- The transactions contemplated by the Agreement require a waiver or consent to avoid an event of default that will be triggered by the contemplated change of control under:

    - Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.
    - Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto and Fifth Third Bank.
    - Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association
    - Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch

- Notice of the transactions contemplated by the Agreement and application to S&P Global's Ratings Services or Moody's Investors Service, Inc., as applicable, for a rating review of the Senior KPCo Notes is required under the Senior Note Purchase Agreements dated as of July 10, 2014 and September 12, 2017, respectively. In the event of a Change in Control Prepayment Event (as defined thereunder), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements

- A creditworthiness review of Kentucky Power by Columbia Gas Transmission, LLC may be triggered as a result of the transactions contemplated by the Agreement pursuant to the FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC which is subject to the General Terms and Conditions of the Kentucky Power FERC Gas Tariff of Columbia Gas Transmission, LLC

- Notice and/or consent will be required to withdraw Kentucky Power from the Master Lease Agreements and to transfer, lease or provide the benefit of certain assets thereunder from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company

- Consent to assignment will be required from counterparties under the following agreements in order to effect an assignment of certain contracts from Kentucky Power to Wheeling Power Company in connection with the change in the operator of Mitchell from Kentucky Power to Wheeling Power Company:

- [redacted]

- Consent of the counterparty to Kentucky Power's Tower Lease Agreement dated March 29, 2006 for the Mouthcard TS radio tower is needed to allow the installation of certain equipment (including a P25 receiver, transport equipment, a cienna box, router, Bogner and related equipment) on the Mouthcard TS in order to maintain P25 radio network coverage for AEP's Affiliates

Section 2.5(a)
Financial Statements

(i) See attached Annex 2.5(a)(i)

(ii) See attached Annex 2.5(a)(ii)

Section 2.5(c)
Liabilities

None

Section 2.7(c)
Sufficiency of Assets

1. The following real property is held in the name of Franklin Real Estate Company for the benefit of Kentucky Power, and will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing:

Site	**Grantor**	**Deed Recording Info**	**County**
Hazard Station	Darnell Brashear	Book 352, Page 575	Perry
Chadwick Station	C.M. Bates and Irene Bates	Book 456, Page 251	Boyd
St. Paul	William Estill Bentley and Pauline Bentley	Book 123, Page 385	Lewis
St. Paul	Orville Callihan and Margarette E. Callihan	Book 124, Page 106	Lewis
St. Paul	Elza D. Smith and Bertha Smith	Book 124, Page 110	Lewis
D&J or Flatwoods Subdivision	Donald Lee Davidson and Janice Davidson	Book 227, Page 265	Greenup
D&J or Flatwoods Subdivision	Kentucky Power	Book 289, Page 169	Greenup

2. Approximately 40 surface acres and 100,000 acres of coal mineral rights in multiple parcels scattered across multiple counties of southwestern Indiana are deeded in multiple deeds to Indiana Franklin Realty, Inc. and are held on the books as undivided interests by Indiana Michigan Power Company (~$4.7 million) and Kentucky Power (~$1.1 million), and known as the Posey Coal Fields (the "Posey Coal Fields"). The property is not currently economically viable to mine and we do not anticipate this property having an economic benefit to either Indiana Michigan Power Company or Kentucky Power in the near future. The Posey Coal Fields will be removed from Kentucky Power prior to Closing as described on in Section 4.1(f) of the Sellers Disclosure Letter.

Section 2.8(a)
Material Contracts of the Acquired Companies

(i)

- The Contracts listed under the remainder of Section 2.8(a) of the Sellers Disclosure Letter

- Any Contracts described in Section 4.1(a) of the Sellers Disclosure Letter

- **Consumables and Consumables Transportation**

  - Urea (Mitchell Plant)

    - Purchase and Sale Agreement No. AEPSC-06-U03 dated March 1, 2007 between AEPSC, as agent for the AEP Operating Companies (including Kentucky Power), and Yara North America, Inc.

  - Urea Terminal and Transportation (Mitchell Plant)

    - Barge Transportation Contract, B20008 dated July 1, 2020 between Campbell Transportation Company, Inc. and AEPSC as agent for certain Affiliates, including Kentucky Power
    - Agreement No. AEP-TR-08-900 dated December 1, 2008 between AEPSC, as agent for the AEP operating companies, and Bellaire Harbor Services, LLC, as amended (truck delivery to plant)

  - Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-HRH-20-001 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Mississippi Lime Company (delivered by truck)

  - High Reactivity Hydrated Lime (Mitchell Plant)

    - AEP Order Number 03-20-HL-001 dated November 13, 2020 between Kentucky Power and Mississippi Lime Company

    - AEP Order Number 03-HRH-20-002 dated September 1, 2020 between AEPSC, as agent for Kentucky Power, and Lhoist North America of Missouri, Inc. (delivered by truck)

  - Limestone (Mitchell Plant)

    - Limestone Purchase and Sale Agreement No. 03-00-21-LS1 dated July 1, 2021 between AEPSC, as agent for Kentucky Power, and Hilltop Big Bend Quarry, LLC

- Limestone Purchase and Sale Agreement No. 03-00-21-LS0 dated August 1, 2021 between AEPSC, as agent for Kentucky Power, and Carmeuse Lime & Stone, Inc. (delivered by barge by Indiana Michigan Power Company River Transportation Division – see coal transportation below)

- Trona (Mitchell Plant)

  - Agreement No. AEP-07-TR-901 dated January 1, 2008 between AEPSC, as agent for its affiliated companies (including Kentucky Power), and Solvay Chemicals, Inc., as amended (delivered by truck)

- Fly Ash (Mitchell Plant)

  - Fly Ash Sale Agreement No. SC-16-S-003 dated January 1, 2017 between AEPSC, as agent for Kentucky Power, and Headwaters Resources, LLC (aka Boral)

- CertainTeed Gypsum (Mitchell Plant)

  - Supply Agreement dated March 11, 2005 between CertainTeed Gypsum West Virginia Inc. ("CertainTeed", f/k/a BPB West Virginia Inc.) and Kentucky Power (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012, and as further amended by Amendment No. 2013-1 dated June 5, 2013 (the "CertainTeed Contract")

- **Other Contracts**

  - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
  - Conner Run Impoundment Transition and Joint Use Operating Agreement dated July 2, 2015 between Kentucky Power and Consolidation Coal Company
  - Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
  - All Contracts relating to the 20 MW Solar Project under development – See Section 4.1(a) of the Sellers Disclosure Letter
  - Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Capitalized Spare Parts dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

- Affiliated Transactions Agreement for Sharing Materials and Supplies dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 by and among AEPSC, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company and Wheeling Power Company

- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013, as further amended by Amendment No. 2 dated May 9, 2019.

- [redacted]

(ii)

- **Municipality Contracts**

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 14, 2005 among AEPSC, as agent for Kentucky Power, the City of Vanceburg, Kentucky, and the Electric Plant Board of the City of Vanceburg, Kentucky; with FERC Rate Schedule No. 51 Agreed Upon Revisions filed with FERC on December 6, 2007

  - Cost-Based Formula Rate Agreement for Full Requirements Electric Service dated December 21, 2005 between AEPSC, as agent for Kentucky Power, and the City of Olive Hill, Kentucky; with FERC Rate Schedule No. 52 Agreed Upon Revisions filed with FERC on January 9, 2008

- **Other Contracts**

  - PJM Transmission Formula Rate – Attachment H-14 (Kentucky Power) and H-20 (Kentucky TransCo) of PJM Open Access Transmission Tariff ("OATT") among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC

  - Reactive Supply and Voltage Control from Generation Service Tariff dated June 1, 2015 among Kentucky Power, Wheeling Power Company, Appalachian Power Company and Indiana Michigan Power Company (to remove the Kentucky Power portion of Mitchell Plant and Big Sandy Plant from the AEP Reactive Revenue Requirement in addition to withdrawal of Kentucky Power)

  - AEP Operating Companies Market Based Rate Tariff among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC (including termination of the certificate of concurrence)

  - FERC Electronic Tariff for Market-Based Sales Tariff dated March 1, 2019

  - Reactive Supply and Voltage Control from Generation Sources Service Rate Schedule no. 304

  - AEP Generating Company FERC Rate Schedule No. 2 Unit Power Service to Kentucky Power dated December 31, 2012

  - The following agreements related to participation in PJM

    - Consolidated Transmission Owners Agreement dated December 15, 2005 among Kentucky Power, Kentucky TransCo and the other Transmission Owners (as defined therein)

- Reliability Assurance Agreement dated June 1, 2007 among Kentucky Power, Kentucky TransCo and the other Members (as defined therein)
- Amended and Restated Operating Agreement of PJM Interconnection, L.L.C. among Kentucky Power and the other Parties thereto (as defined therein)
- PJM Tariff

(iii)

- Note Purchase Agreement dated June 18, 2009 between Kentucky Power and American United Life Insurance Company, et al.

- Note Purchase Agreement dated July 10, 2014 between Kentucky Power and Teachers Insurance and Annuity Association of America, et al.

- Note Purchase Agreement dated September 12, 2017 between Kentucky Power and Pensionskasse Des Bundes Publica, et al.

- Loan Agreement dated June 15, 2014 between Kentucky Power and West Virginia Economic Development Authority as amended on June 1, 2020

- Prospectus Supplement dated June 10, 2003 to Prospectus dated June 10, 2003 for $75,000,000 5.625 Senior Notes Series D, due 2032

- Agreement of Resignation, Appointment and Acceptance dated September 26, 2018 among Kentucky Power, Deutsche Bank Trust Company Americas, and The Bank of New York Mellon Trust Company, N.A

- Indenture dated September 1, 1997 between Kentucky Power and Bankers Trust Company relating to certain of the Senior KPCo Notes

- The agreements disclosed on Section 4.16 of the Sellers Disclosure Letter and any replacements thereof entered into in accordance with Section 4.1(a)(viii)

(iv)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(v)

- Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

- Existing PCA

- Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC

- Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company

- Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

- Amended and Restated Urea Handling Agreement dated December 16, 2013 among Indiana Michigan Power Company, Kentucky Power and Appalachian Power Company

- AEP System Rail Car Use Agreement dated April 1, 1982 among Indiana Michigan Power Company, Appalachian Power Company, Ohio Power Company, Southwestern Electric Power Company, Public Service Company of Oklahoma and Kentucky Power, as amended by Amendment No. 1 dated July 1, 2006, as further amended by Amendment No. 2 dated September 12, 2013

- American Electric Power Company, Inc. and its Consolidated Affiliates Tax Agreement under Title 17, Chapter II of the Code of Federal Regulations Paragraph (C) of Section 250.45 Regarding Method of Allocating Consolidated Income Taxes

- Rail Car Maintenance Agreement dated August 1, 2013 among AEP Generating Company, Ohio Power Company, Appalachian Power Company, Public Service Company of Oklahoma and Southwestern Electric Power Company.

- Agreement between Kentucky Power and AEP Energy Services, Inc. dated July 7, 1983

- Purchase Contract dated March 31, 1975 between Kentucky Power and Indiana Franklin Realty, Inc.

- Purchase Contract dated June 7, 1963 between Kentucky Power and The Franklin Real Estate Company

- Affiliated Transactions Agreement for Sharing Materials, Equipment, Supplies, and Capitalized Spare Parts dated May 13, 2021 among (a) Appalachian Power Company, Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; (b) Public Service Company of Oklahoma, Southwestern Electric Power Company, and AEP Oklahoma Transmission Company; and (c) American Electric Power Service Corporation, as agent

- Affiliated Transactions Agreement for Sharing Transmission Assets dated May 13, 2021 among (a) AEP Ohio Transmission Company, Inc., AEP West Virginia Transmission Company, Inc., AEP Appalachian Transmission Company, Inc., AEP Indiana Michigan Transmission Company, Inc., and Kentucky TransCo; (b) Appalachian Power Company,

Wheeling Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power Company, Ohio Power Company; and (c) American Electric Power Service Corporation, as agent

- Assignment to Kentucky Power dated December 15, 2013 of Ohio Power Company's interest in Gypsum and Purge Stream Waste Disposal Agreement dated November 16, 2007 between Appalachian Power Company and Ohio Power Company
- Agreement between Kentucky Power and AEP Energy Solutions, Inc. dated September 27, 1996
- Bridge Agreement dated January 1, 2014 among Kentucky Power, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company and AEPSC (including cancellation of the certificate of concurrence)
- System Integration Agreement dated June 15, 2000, as amended June 1, 2015, among Kentucky Power, Wheeling Power Company, Appalachian Power Company, Indiana Michigan Power Company, Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, as amended (including cancellation of the certificate of concurrence)
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended
- Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company
- Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.
- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Service Agreement dated June 15, 2000 between Kentucky Power and AEPSC
- Transmission Agreement dated April 1, 1984, as amended November 1, 2010, among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company and AEPSC
- AEP Open Access Transmission Tariff (OATT) dated June 20, 2017 among Kentucky Power, Wheeling Power Company, Ohio Power Company, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Texas

Inc. (formed via merger of AEP Texas Central Company and AEP Texas North Company), Public Service Company of Oklahoma, Southwestern Electric Power Company and AEPSC, (including cancellation of the certificate of concurrence)

- Affiliated Transactions Agreement for Sharing Materials and Supplies, dated January 1, 2014 among AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Ohio Power Company and AEP Generating Company

- Affiliated Transactions Agreement dated December 31, 1996 among American Electric Power Service Corporation, Appalachian Power Company, Indiana Michigan Power Company, Kentucky Power, Kingsport Power, Ohio Power Company and Wheeling Power Company

(vi)

Contract for the Sale and Purchase of Real Property dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia, as part of Kentucky Power's sale of certain parcels of vacant real property known as "Carrs", which was purchased as a potential site for a power plant that was not pursued, and which is referenced at Section 4.1(a)(i) of the Sellers Disclosure Letter

(vii)

AEP Pro Serv, Inc. is in negotiations to sell its subsidiary, United Sciences Testing, Inc., to a third party, which third party will also receive the contract to perform emissions testing services for the entire AEP system for a five year period with an option for an additional term, which will include the Mitchell Plant

(viii)

None

(ix)

None

(x)

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

(xi)

Vendor Name	Contract	PO Description
[redacted]	[redacted]	[redacted]

(xii)

- The Contracts described in Section 4.9 of the Sellers Disclosure Letter

(xiii)

- Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
- Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a Lease Option Agreement, as well as submitted 100 MW GIA request to PJM

(xiv)

- **Fuel and Transportation Contracts**
  - Coal (Mitchell Plant)

- Coal Transportation (Mitchell Plant)

  - Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended by Amendment No. 1 dated September 12, 2013 and Amendment No. 2 dated May 9, 2019

- Natural Gas (Big Sandy Plant)

  - Gas purchased daily on the spot market from approximately 8-12 suppliers a month; credit approved suppliers effective March 15, 2021 include CNX Gas Company LLC, DTE Energy Trading, Inc., EDF Trading North America, LLC, Eco-Energy Natural Gas, LLC, Emera Energy Services, Inc., Interstate Gas Supply, Inc., J. Aron & Company LLC, Macquarie Energy LLC, Mercuria Energy America, LLC, NJR Energy Services Company, NextEra Energy Marketing, LLC, Range Resources – Appalachia, LLC, Respol Energy North America Corporation, Sequent Energy Management, L.P., ARM Energy Management, Atmos Energy Marketing, LLC, BioUrja Trading, LLC, Concord Energy LLC, Elevation Energy Group, LLC, Freepoint Commodities LLC, MIECO Inc., Snyder Brothers, Inc., Spire Marketing Inc., Spotlight Energy, LLC, Symmetry Energy Solutions, LLC, Tenaska Marketing Ventures, Texla Energy Management Inc., and Twin Eagle Resource Management, LLC

- Natural Gas Transportation (Big Sandy Plant)

- FTS Service Agreement No. 173522 dated May 31, 2016 between Kentucky Power and Columbia Gas Transmission, LLC, with Negotiated Rate Letter Agreement Appendix B dated May 27, 2016
- Master PAL (Park and Loan) Agreement No. 178682 dated July 8, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- SIT Service Agreement No. 177527 dated May 27, 2016 between Kentucky Power and Columbia Gas Transmission, LLC
- ITS (Interruptible) Service Agreement No. 184164 dated November 28, 2016 between Kentucky Power and Columbia Gas Transmission, LLC

- Fuel Oil (Mitchell Plant)

  - AEP Order No. 03-FO-20-001 dated June 22, 2020 between Kentucky Power and Pilot Travel Centers LLC (delivered by tanker truck)

(xv)

- All hedging transactions for the Acquired Companies are effected through an Affiliate and transacted by the Acquired Companies via the Existing PCA

(xvi)

None

(xvii)

- The Collective Bargaining Agreements disclosed on Section 2.14(b) of the Sellers Disclosure Letter

(xviii)

- The Existing Mitchell Operating Agreement and the replacement thereof with the Mitchell Plant Ownership Agreement as of the Closing Date

Section 2.8(b)
Material Contracts - Enforceability

Section 2.9
Company Registered Intellectual Property

Registered Trademarks

"Kentucky Power", registration number 1497111, owned by Kentucky Power

Internet Domain Names[3]

kentuckypower.com
kentuckypower.net
ketuckypower.org
[redacted]
kentuckypower.mobi
kentuckypower-email.com
kentuckypower-aep.com
gridsmartkentucky.com
kentuckypower-mail.com

Patents and Applications

None

Registered Copyrights

None

[3] The domain names will be transferred from an account that is currently owned by AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Section 2.10
Legal Proceedings

Pending Litigation:

Cambrian Holding Bankruptcy; Cambrian Holding Company, Inc., et al. v. Kentucky Power (Eastern District of Kentucky Bankruptcy Court). The Cambrian Holding debtors and the liquidating trustee of Cambrian Liquidating Trust have filed an adversary action against Kentucky Power in the amount of $2.226 million. The adversary Complaint to Avoid Transfers was filed on June 11, 2021.

Threatened Claims:

None

Orders:

The NSR Consent Decree

Section 2.12
Real Property

Certain Real Property is held by Franklin Real Estate Company, an Affiliate of Sellers, as set forth on Section 2.7(c) of the Sellers Disclosure Letter. Such interest in real property will be transferred to Kentucky Power by deed or other transfer instrument in form reasonably acceptable to Purchaser prior to the Closing.

Section 2.13(a)
Sellers Benefit Plans

- American Electric Power System Retirement Plan
- American Electric Power System Excess Benefit Plan
- AEP Retirement Savings 401(k) Plan
- American Electric Power System Supplemental Retirement Savings Plan
- American Electric Power System Comprehensive Medical Plan (which provides both medical and dental benefit options)
- American Electric Power System Comprehensive Vision Plan
- American Electric Power System Life & Accident Insurance Plan
- American Electric Power System Health Care Flexible Spending Account Program
- American Electric Power System Dependent Care Assistance Program
- American Electric Power Sick Pay Policy
- American Electric Power Vacation/Personal Time Off Policy
- American Electric Power Holiday Policy
- American Electric Power Leave of Absence Policies for Parental, FMLA, Military Leave, Jury Duty and Bereavement
- American Electric Power System Long-Term Disability Plan
- American Electric Power Group Legal Plan
- American Electric Power Company, Inc. Severance Plan
- American Electric Power Executive Severance Plan
- American Electric Power System Long-Term Incentive Plan 1
    - Performance Share Award Agreement
    - Restricted Stock Unit Award Agreement
- American Electric Power System Incentive Compensation Deferral Plan
- American Electric Power Annual Incentive Compensation Plan:
    - Utilities/Kentucky Power Plan
    - Energy Delivery Plan
    - Generation Plan
    - Corporate/Staff Plan

Section 2.13(f)
Sellers Benefit Plans – Triggering Events Caused by the Agreement

(i) [redacted]

(ii) None

(iii) [redacted]

[redacted]

(iv) None

4 [redacted]

Section 2.13(g)
ERISA Title IV Plans

Kentucky Power is charged with a portion of the contributions to the American Electric Power System Retirement Plan, which is a Benefit Plan that is subject to Title IV of ERISA.

Section 2.13(h)
Post Service Medical Benefits

AEP offers retiree medical, dental and life insurance benefits for its employees meeting age and years of service requirements and who were hired prior to January 1, 2014, and a portion of the liability for this has been allocated to Kentucky Power Business Units.

Section 2.14(a)
Labor Matters

[redacted]

Section 2.14(b)
Labor Matters

- IBEW Local 978 represents a portion of hourly Kentucky Power employees. Specifically, Kentucky Power is a party to agreements that cover employees for Ashland, Hazard, Pikeville and the Big Sandy Plant. These agreements also cover employees of other companies in the AEP corporate group other than Kentucky Power. These agreements all expire on March 31, 2022. Certain AEPSC employees are represented under these agreements (Fleet, Stores, Line).

    1. AEP Companies/IBEW System Council U-9 Master Collective Bargaining Agreement, along with IBEW Locals 329, 386, 696, 738, 876, 934, 978, 1002, 1392 and 1466 ("IBEW Master") - This agreement is currently under negotiation for renewal and expected to be renewed before the end of 2021.
    2. Agreement between Kentucky Power and Local Union 978 Ashland District Bargaining Unit [5]
    3. Agreement between Kentucky Power and Local Union 978 Hazard Bargaining Unit
    4. Agreement between Kentucky Power and Local Union 978 Pikeville FRO Bargaining Unit
    5. Agreement between Kentucky Power Big Sandy Plant and Local 978, International Brotherhood of Electrical Workers
    6. Agreement between AEPSC and Local 1466 Unit 1, International Brotherhood of Electrical Workers

- UWUA Local 492 represents hourly Kentucky Power employees at the Mitchell Plant. This agreement expires on May 31, 2022. Negotiations for renewal on the UWUA Agreement will commence following the completion of negotiations on the IBEW Master Agreement.

    1. Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Represented employee count as of 06/30/2021 (excluding vacancies)

IBEW 978 – Big Sandy	15
IBEW 978 -Pikeville – Field Rev	4
IBEW 978 -Ashland	32
IBEW 978 -Hazard, Whtsbrg	32
UWUA 492-Mitchell	124[6]

[5] Negotiations on the agreements listed in numbers 2-6 with the local bargaining units will commence at the conclusion of the renegotiation of the Master Agreement, and are expected to conclude in February 2022.
[6] Number includes Mitchell Employees.

Section 2.14(c)
Separation Programs

- [redacted]
  - [redacted]
- [redacted]

Section 2.14(d)
Sexual Harassment

None

Section 2.15
Taxes

1. As described in Section 2.7(c) of the Sellers' Disclosure Letter, Kentucky Power has a beneficial interest in the Posey Coal Fields, which are comprised of 40 surface acres and 100,000 acres of coal mineral rights. Title to the Posey Coal Fields is vested in Indiana Franklin Realty, Inc. , which holds title to the property for the benefit of Kentucky Power and Indiana Michigan Power Company. Kentucky Power has not historically filed income tax returns in Indiana.

2. There are Tax Proceedings underway (and a concurrent waiver of the statute of limitations) concerning the following as disclosed to Purchaser:

    - Kentucky Energy Direct Pay (sales tax on natural gas purchases) for the period January 1, 2015 through December 31, 2018
    - Kentucky Sales/Use Tax (direct pay permit) for the period March 1, 2015 through December 31, 2018

3. [redacted]

- [redacted]

Section 2.16(b)
Environmental Matters - Consent Decrees, Agreements or Orders

Kentucky Power is a party to the NSR Consent Decree.

Section 2.16(c)
Environmental Matters - Releases

None

Section 2.16(d)
Environmental Claims

AEP received a Notice of Violation dated October 19, 2021 ("NOV")from the Pennsylvania Department of Environmental Protection regarding a disposal of residual waste related to Mitchell Plant at the Arden Landfill in Chartiers Township, Washington County. Kentucky Power sold a Mitchell Plant transformer to a third party for scrap. The third party sent the industrial waste from the process to scrap the transformer to a Pennsylvania landfill, allegedly without a proper waste profile. Kentucky Power intends to respond to the NOV indicating that it was not the owner or generator of the waste. The NOV is not likely to result in any material Liability**.**

Section 2.16(e)
Assumed Environmental Liabilities

Asset Contribution Agreement between AEP Generation Resources Inc. and Newco Kentucky Inc. (merged into Kentucky Power) dated December 31, 2013 for the transfer of an undivided 50% interest in the Mitchell Plant

Kentucky Power has assumed certain liabilities under Environmental Law as a result of the NSR Consent Decree

Section 2.19
Insurance

See attached Annex 2.19

Section 4.1(a)
Conduct of Business

(i)

Kentucky Power intends to sell certain parcels of vacant real property known as "Carrs," which were purchased as a potential site for a power plant that was not pursued with such disposition planned to be completed pursuant to the following contracts: (i) Contract for the Sale and Purchase of Real Estate dated August 6, 2021 between Kentucky Power and Brian Preston and Patrick O'Melia and (ii) Contract for the Sale and Purchase of Real Estate dated September 3, 2021 between Kentucky Power and James Meadows, Jennifer Meadows, Mathew Meadows and Jill Meadows. Kentucky Power removed the property from its rate base several years ago and has periodically marketed the property for sale since that time.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement. It is anticipated that Kentucky Power will be removed prospectively from this receivables financing program approximately 90 days prior to the anticipated Closing Date.

(ii)

None.

(iii)

Kentucky Power will be withdrawn from the Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended. Kentucky Power participated in the Grid Assurance program in accordance with an Order entered on November 15, 2018 in Case No. 2018-00287 by the KPSC.

[redacted]

[redacted]

[redacted]

[redacted]

Kentucky Power is preparing to submit an application to the KPSC requesting a certificate of Public Convenience and Necessity in the 4th quarter of 2021 with a proposed timeline for the deployment of Advanced Metering Infrastructure from 2023 through 2026. After receipt of the Certificate of Public Convenience and Necessity, Kentucky Power will begin to execute contracts in connection therewith due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power is in the process of developing a 20 MW solar project for which it has secured land control via a lease option agreement, as well as submitted a 100 MW GIA request to PJM. Kentucky Power will conduct geotechnical studies, environmental studies, and minor survey work. It is expected that the GIA/PJM study process will take multiple years before Kentucky Power would initiate an RFP process.

Kentucky Power intends to terminate its sale of receivables to AEP Credit, Inc. in connection with its receivables financing program and the Third Amended and Restated Purchase Agreement with AEP Credit, Inc. dated August 25, 2004, as amended, in accordance with Section 4.8 of the Agreement, as described under subsection (i) of this Section 4.1(a) of the Sellers Disclosure Letter.

Kentucky Power may amend any Intercompany Arrangement that will be terminated with respect to the Acquired Companies on or prior to the Closing in accordance with Section 4.8 of the Agreement, provided that such amendment does not increase the obligations or liability of an Acquired Company or discharge any accrued obligations owed by the Seller Entities in favor of the Acquired Companies.

The domain names set forth on Section 2.9 of the Sellers Disclosure Letter will be transferred from an account that is currently owned by or held in the name of AEPSC to an account in the name of Kentucky Power on or prior to Closing.

Kentucky Power intends to make expenditures and take actions reasonably necessary to comply with the CCR (Coal Combustion Residuals) requirements. Bottom ash pond closure work necessary to comply with CCR requirements began in September 2021 and will be complete in November 2023. If Wheeling Power Company does not move forward with ELG, then construction of a new CCR compliant ash pond would be scheduled to begin in April 2022.

Kentucky Power intends to make elections to bid into any PJM capacity auctions occurring prior to Closing in conjunction with the Bridge PCA.

[redacted]

(iv)

None

(v)

[Reserved]

(vi)

None

(vii)

None

(viii)

Kentucky TransCo may refinance its existing long term debt owed to Affiliates in the amount of approximately $65 million by replacing or refinancing such debt with funds provided under the Utility Money Pool Agreement.

The Credit Agreement, by and among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, will terminate on March 6, 2022 (if not earlier). If the Closing has not occurred prior to the maturity or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

The Amended and Restated Credit Agreement, by and among Kentucky Power, the lenders party thereto, and Fifth Third Bank, dated as of October 26, 2018 will terminate on October 26, 2022 (if not earlier). If the Closing has not occurred by such time or if Kentucky Power determines it is reasonable to do so prior to maturity, Kentucky Power

may draw funds under the Utility Money Pool Agreement to repay/refinance that maturity in total or in part.

In the event of a Change in Control Prepayment Event (as defined in the Senior Note Purchase Agreement), Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the applicable Senior Note Purchase Agreements.

(ix)

None

(x)

None

(xi)

None

(xii)

None

(xiii)

Kentucky Power and Wheeling Power Company, each of which owns an undivided 50% interest in the Mitchell Facility, have previously elected out of Subchapter K of the Internal Revenue Code with respect to their ownership interests as co-tenants in Mitchell pursuant to the deemed election provisions of Treas. Reg. § 1.761-2(b)(2)(ii). Kentucky Power and Wheeling Power Company have memorialized this election by filing an election pursuant to the procedures described in Treas. Reg. § 1.761-2(b)(2)(i) in connection with the filing of AEP's federal, state and local income tax returns for the taxable year ending December 31, 2020. Kentucky Power intends to make any additional filings as necessary to memorialize such election out of Subchapter K.

The tax accounting changes set forth under "Accounting Changes" on Section 2.15 of the Sellers Disclosure Letter

(xiv)

None

(xv)

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity to deploy Advanced Metering Infrastructure in the fourth quarter of 2021 and to begin such deployment in accordance with commission's approval of such rollout. The planned rollout is expected to take place in from 2023 through 2026 due to long lead times on ordering AMI meters. The filing of the Certificate of Public Convenience and Necessity will be made only after determining any compatibility issues with Purchaser's metering system.

Kentucky Power intends to submit an application to the KPSC requesting a Certificate of Public Convenience and Necessity for the 20 MW solar project described above.

Kentucky Power intends to submit an informational filing to advise the KPSC of planned replacement capacity for the Rockport Unit Power Agreement in the fourth quarter of 2021.

Kentucky Power intends to submit an application and/or obtain such further orders and clarifications from the KPSC and any other Governmental Entity reasonably necessary to address compliance with the CCR (Coal Combustion Residuals) requirements and/or ELG (Effluent Limitation Guidelines) at Mitchell.

(xvi)

None

(xvii)

None

(xviii)

None

(xix)

None, other than as listed on this Section 4.1(a) of the Sellers Disclosure Letter

•

Section 4.1(c)
Capital Expenditures

See attached Annex 4.1(c)

Section 4.1(f)
Certain Additional Matters

1. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Kentucky Power and Appalachian Power Company governing wholesale delivery of power across the Kentucky Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

2. At least 90 days prior to the Closing Date, enter into an Interconnection and Local Delivery Service Agreement between Appalachian Power Company and Kentucky Power governing wholesale delivery of power across the Appalachian Power system, in form customarily used by AEP and reasonably acceptable to Purchaser.

3. Kentucky Power and Appalachian Power Company cause the filing by PJM with FERC of each of the Interconnection and Local Delivery Service Agreements specified in items 1 and 2 above (the "ILDSAs"), pursuant to FPA Section 205 at least 90 days prior to the Closing Date to become effective as of the Closing Date.

4. Kentucky Power shall transfer at net book value to any Seller or any of its Affiliates (other than the Acquired Companies), and such Seller or its Affiliates shall accept and fully assume all of Kentucky Power's right, title and interest, including all Liabilities, with respect to the Posey Coal Fields, which is to be effected pursuant to a book entry on each party's accounting records together with customary documentation of such assumption of Liabilities reasonably satisfactory to Purchaser.

5.

Section 4.8(a)(i)
Intercompany Arrangements - Approvals

The acceptances/approvals and notices set forth under the following headings as set forth on Section 2.4(a) of the Sellers Disclosure Letter (other than those listed under "The following new agreements and/or submission applications"):

- FERC acceptance/approval of the following items pursuant to Section 205 of the FPA:
- Post-Closing notice to FERC regarding:
- Approval of the WVPSC regarding the following:
- Notice to the Indiana Utility Regulatory Commission regarding the following:
- Approval of the Virginia State Corporation Commission regarding the following:

Pursuant to the Order of the KPSC under Case No. 2018-0087, notice to the KPSC regarding the change to the "Sparing Service" under Grid Assurance LLC Amended and Restated Subscription Agreement dated April 2, 2019 among Grid Assurance LLC, Kentucky Power, and Kentucky TransCo and several other Affiliates, as amended due to the withdrawal of Kentucky Power

Section 4.8(a)(ii)
Continuing Intercompany Arrangements

- The following agreements will be executed on or prior to the Closing Date on terms and conditions reasonably satisfactory to Purchaser:
    - Leases between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of space on certain radio towers in order to maintain radio network coverage for AEP's Affiliates
    - AEP will cause AEPSC as agent for certain AEP Affiliates to enter into the Operational Procedure Document
    - Transmission Interconnection Agreement(s) between: (i) Kentucky Power and Ohio Power Company (ii) Kentucky Power and Appalachian Power Company and (iii) Kentucky Power and Indiana Michigan Power Company
    - ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter)
    - Power Sale Agreement between an AEP Affiliate or Affiliates and Kentucky Power for the purchase by Kentucky Power of the amount of capacity it will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years (the "New Power Sale Agreement") (see description on Section 4.8(b) of the Sellers Disclosure Letter)
    - Bridge PCA (see description on Section 4.8(b) of the Sellers Disclosure Letter)
- The parties thereto will enter into the Mitchell Plant O&M Agreement in accordance with the Agreement
- The parties thereto will enter into the Mitchell Plant Ownership Agreement in accordance with the Agreement
- The following Intercompany Arrangements will continue by their terms:
    - Unit Power Agreement dated August 1, 1984 between Kentucky Power and AEP Generating Company
    - Amended and Restated Cook Coal Terminal Transfer Agreement dated December 16, 2013 between Kentucky Power, AEP Generating Company, Appalachian Power Company and Indiana Michigan Power Company, and neither the Acquired Companies nor AEP and its Affiliates shall seek to terminate Kentucky Power as a party to the agreement earlier than the date on which the expiration or termination of the Unit Power Agreement is effective

Section 4.8(b)
Intercompany Arrangements – Power Coordination

Bridge PCA

Kentucky Power will enter into the PCA Bridge with AEP and/or its Affiliates (all parties to the PCA Bridge other than Kentucky Power, the "AEP Parties") on terms and conditions reasonably acceptable to Purchaser. The Bridge PCA will address the following issues:

- Kentucky Power's participation in the PJM Fixed Resource Requirement with the other AEP Companies and related sales of capacity from the AEP's FRR plan into the PJM Reliability Pricing Model Market. AEP FRR plan participation is anticipated to be through the 2023/2024 PJM Planning Year and the 2024/2025 PJM Planning Year if the Closing Date occurs after the FRR commitment date for that Planning Year in mid-April 2022.

- Kentucky Power remaining a transmission owner and load serving entity for its service territory in PJM and in AEP's Load Zone in PJM through January 1 of the calendar year after it is no longer a party to AEP's FRR plan.

- Kentucky Power's sharing in the costs and benefits of the coal, energy, capacity and related contracts entered into by AEP to support the AEP Parties (where that includes Kentucky Power) until those positions expire or are wound-down by AEP.

- The commitments that will be made by AEP on behalf of Kentucky Power in the normal course of business related to its participation in PJM, such as nominating and managing the Auction Revenue Rights or Financial Transmission Rights for transmission paths associated with Kentucky Power's service of its retail and wholesale customer loads.

- Establishment of stand-alone PJM accounts for Kentucky Power's PJM settlement activity and transitioning charges and credits for Kentucky Power activity from AEP to Kentucky Power.

New Power Sale Agreement

In connection with the Bridge PCA and the amount of capacity Kentucky Power will need to meet the PJM FRR election for the 2022/2023 and 2023/2024 plan years, on or prior to the Closing Date, Kentucky Power will enter into an agreement or agreements on terms and conditions reasonably acceptable to Purchaser, with AEP or an Affiliate to purchase from AEP or an Affiliate the amount of capacity it believes it will need to meet the amount of its FRR commitment that is in excess of its expected generation for those periods (estimates of approximately 183 MW and 170 MW, respectively).

Section 4.9
Support Obligations

- Self-Insurers' Guarantee Agreement dated June 3, 2011 made by AEP to assume and guarantee to pay or otherwise discharge promptly all the liabilities and obligations of Kentucky Power, AEPSC, AEP Kentucky Coal, LLC and AEP River Operations LLC which are provided for under the provisions of the Workers' Compensation Act of the Commonwealth of Kentucky per KRS Chapter 342

- Unconditional and Continuing Parental Guaranty In the Matter of Self-Insurance of Subsidiaries of said Guarantor dated December 15, 2008 among AEPSC, Appalachian Power Company, Ohio Power Company, Wheeling Power Company, Kentucky Power and Indiana Michigan Power Company and AEP

Section 4.12
D&O Indemnification Agreements

- Section XII of Kentucky Power's By-Laws as amended on March 20, 2008 sets forth Kentucky Power's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky Power, as well as others as set forth in such Section XII.

- Section XII of Kentucky TransCo's By-Laws dated October 29, 2009 sets forth Kentucky TransCo's obligations to indemnify any person who was or is made a party to a proceeding because such person is or was a director, officer or employee of Kentucky TransCo, as well as others as set forth in such Section XII.

Section 4.16
Existing Debt Arrangements; Senior Notes

- Bond Purchase and Continuing Covenants Agreement dated June 1, 2017 between Kentucky Power and Key Government Finance, Inc.

- Credit Agreement dated March 6, 2020 among Kentucky Power, the lenders party thereto, and Key Bank National Association

- Amended and Restated Credit Agreement dated October 26, 2018 among Kentucky Power, the lenders party thereto, and Fifth Third Bank

- Credit Agreement dated June 17, 2021 among Kentucky Power, the lenders party thereto, and Canadian Imperial Bank of Commerce, New York Branch

- Senior Note Purchase Agreements and Senior KPCo Notes

- Utility Money Pool Agreement

- TransCo Intercompany Notes

Section 4.17
Business Separation Matters

The Business Separation Plan to be developed during the Interim Period shall address the following:

- Reconfigure the AEP telecom network to exclude Kentucky Power. As a part of the overall telecom project and to ensure sufficient ongoing radio network coverage, installation by Kentucky Power at or prior to Closing of certain equipment and facilities on radio towers and the execution at or prior to Closing of a perpetual rent free lease between AEPSC or an Affiliate, as lessee, and Kentucky Power, as lessor, for the lease of such towers in order to maintain radio network coverage for AEP's Affiliates.

- Establish the installation of meters and cumulative usage data aggregation and profiling processes on un-metered intra-company distribution lines across KY, WV and VA in order to calculate separate jurisdictional/system load of Kentucky Power and AEP Affiliates

- Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

- The real property held by Franklin Real Estate Company as set forth on Section 2.7(c) of the Sellers Disclosure Letter will be transferred to Kentucky Power by deed prior to the Closing.

- Any real property, permits or leases used exclusively in the business of the Acquired Companies held in the name of other AEP affiliates including AEPSC. If any is found, rights to such real property, permits or leases will be transferred to the applicable Acquired Company via title, assignment, lease, easement or other applicable land interest, as appropriate, prior to the Closing.

- [redacted]

- Such other items mutually identified and agreed to prior to Closing, including, if applicable, the addition of services and terms to the Transition Services Agreement.

Section 4.18
NERC Registration

Purchaser selects the following option to address registration with NERC for the bulk electric system facilities of Kentucky Power and Kentucky TransCo, except in connection with Kentucky Power's interest in the Mitchell Facility whereby Wheeling Power Company, as the operator, shall be the registered entity for the bulk electric system assets associated with the Mitchell Facility and responsible for NERC compliance for such assets under 18 C.F.R. § 39.2.

- Option: Purchaser shall establish a new registered entity with NERC, which shall be registered under the following functional registration categories for the newly-acquired bulk electric system assets: DP, GO, GOP, RP, TO, TOP, and TP. That registered entity shall be certified as a TOP for the newly-acquired bulk electric system transmission facilities. That registered entity shall implement a compliance program for compliance with (i) all reliability standards applicable to the new Registered Entity for the new-acquired bulk electric system assets under 18 C.F.R. § 39.2; (ii) the NERC Rules of Procedure; and (iii) the PJM TO/TOP Matrix.

Section 4.19
Master Leases

- Master Lease Agreement with Banc of America Leasing and Capital LLC dated September 2, 2014

- Master Leasing Agreement with The Huntington National Bank dated December 29, 2008

- Master Equipment Lease Agreement with Huntington Technology Finance, Inc. dated September 17, 2018

- Master Lease Agreement with RBS Asset Finance Inc. dated December 30, 2008

Section 4.20(a)
Mitchell Operator Assets

The tugboat W. M. Robinson

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

The benefit of certain assets under the Master Lease Agreements currently identified as benefiting Kentucky Power

The Contracts set forth under the headings "Coal (Mitchell Plant), Coal Transportation (Mitchell Plant), Fuel Oil (Mitchell Plant), Urea (Mitchell Plant), Urea Terminal and Transportation (Mitchell Plant), Hydrated Lime (Mitchell Plant), High Reactivity Hydrated Lime (Mitchell Plant), Limestone (Mitchell Plant), Trona (Mitchell Plant), Fly Ash (Mitchell Plant), and CertainTeed Gypsum (Mitchell Plant) in Section 2.8 of the Sellers Disclosure Letter

Barge Transportation Agreement dated May 1, 1986 between certain operating companies of the American Electric Power System, including Kentucky Power, and Indiana Michigan Power Company, as amended

Affiliated Transactions Agreement For Sharing Capitalized Spare Parts dated January 1, 2014 between AEP Generation Resources Inc. and AEPSC, as agent for Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company and AEP Generating Company

Central Machine Shop Agreement dated January 1, 1979 among Kentucky Power, Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, AEP Generating Company and AEP Generation Resources Inc.

Interconnection Services Agreement dated December 31, 2013 between Kentucky Power and Appalachian Power Company (for Mitchell)

Agreement between Kentucky Power – Mitchell Plant and Local 492 Utility Workers Union of America AFL-CIO

Certain substation, interconnection and related facilities and real estate interests located at Mitchell will need to be bifurcated (from a contractual and perhaps an ownership perspective) to separate out those facilities and real estate interests that are properly allocable to Mitchell and those which are properly allocable to AEPSC and its utility Affiliates. It is anticipated that this separation work may involve, among other things, AEPSC or one or more of its Affiliates granting easement or other access rights to certain facilities to the Acquired Companies, and vice versa, pursuant to customary easement and access agreements

The Permits set forth in the tables in Section 2.4(a) of the Sellers Disclosure Letter

Gypsum Letter Agreement dated December 31, 2013 among Cardinal Operating Company, Buckeye Power Cooperative LLC, and Kentucky Power

Section 4.20(e)
Conner Run Indemnity

Section 4.22
Insurance Claims

None

Section 5.2
Non-Covered Employees

The President of Kentucky Power will not be an employee of an Acquired Company as of the Closing Date.

Section 9.2(a)
Certain Indemnification Matters

1. Wholesale delivery service by and between Kentucky Power and Appalachian Power Company prior to the effective date of each of the ILDSAs (as described on Section 4.1(f) of the Sellers Disclosure Letter) as established by FERC in an order accepting each of the ILDSAs; provided that the indemnifiable Losses pursuant to Section 9.2(a)(iv) shall exclude Losses resulting from any penalties, fines or refunds imposed subsequent to any self-reporting with FERC by any Party relating to the failure of Kentucky Power to have filed agreements relating to deliveries across the Kentucky Power or Appalachian Power Company systems made prior to the effective date of each of the ILDSAs as established by FERC.

2. All Liabilities with respect to the Posey Coal Fields (including any Liability in respect of Environmental Claims and any Taxes, including Item 1 of Section 2.15 of the Sellers Disclosure Letter).

Section 5.19
Support Employees

[redacted]

Section A(i)
Knowledge of Purchaser

Kevin Melnyk, Senior Vice President, Regulated Infrastructure Development

Sarah Knowlton, General Counsel, Liberty Utilities

Section A(ii)
Knowledge of Sellers

Charles E. Zebula, Executive Vice President, Portfolio Optimization

Stephan T. Haynes, Senior Vice President, Strategy & Transformation

Mark J. Leskowitz, Vice President, Regulated Fuel Procurement

John C. Crespo, Deputy General Counsel

James D. Fawcett, Managing Director, Labor Relations

Brett Mattison, President and COO, Kentucky Power

Gary O. Spitznogle, Vice President, Environmental Services

Marty Rosenthal, Senior Counsel, Legal – Tax

Gina Mazzei-Smith, Associate General Counsel & Chief Compliance Officer

Section A(iii)
Certain Permitted Encumbrances

None

Section A(iv)
Mitchell Plant Approvals

- Approval of the WVPSC pursuant to West Virginia Code § 24-2-12 of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.2207 and 278.218 of the Mitchell Plant Ownership Agreement and pursuant to Kentucky Revised Statutes § 278.2207 of the Mitchell Plant O&M Agreement, including any changes
- Approvals of or acceptance by FERC under Section 205 of the FPA for the termination or replacement of the Existing Mitchell Plant Operating Agreement and the execution of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including any changes

Section A(v)
Required Regulatory Approvals

- Approval of FERC under Section 203 of the FPA
- Expiration of applicable waiting periods, or clearance or approval under, the HSR Act
- Approval of the KPSC pursuant to Kentucky Revised Statutes §§ 278.020(6) & (7)
- Approval of the Federal Communications Commission for the indirect transfer of radio licenses held by Kentucky Power
- The CFIUS Clearance

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:13:49 AM

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OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], ~~2021~~

TABLE OF CONTENTS

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Non-Operator Owner and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing such Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the

Ownership Agreement. For the avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement.

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over each Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks

or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and ~~annual~~ capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) ("CertainTeed") and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising

the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter

amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements (including the CertainTeed Contract), all applicable equipment maintenance agreements in effect or entered into from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates at the Site in the performance of its obligations under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution,"

"pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) five (5) percentage points (5%) above the "prime" rate of interest as published in The Wall Street Journal or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the limitations on Operator's authority and duties as set forth in this Agreement and the Ownership Agreement.

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services").

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase

order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall use commercially reasonable efforts to perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements and (vii) this Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation ~~and~~, maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation ~~and~~, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same), including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the

Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][1]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or

[1] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

about the Facility (an "Emergency"), Operator shall take prompt action to prevent or mitigate any damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances. To the extent Operator procures goods and services as necessary to respond to an Emergency, such costs shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, access to and use of the Facility and the Site and to such Owner's records and data at the Facility.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto.[2] No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) ~~a~~any proposed ~~annual~~amendments to the capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect ~~throughout the applicable Year, subject to revision, amendment and replacement~~ in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement.

[2] **Note**: Initial ~~budget~~budgets and Plan to be attached on the Effective Date.

To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be relieved from performing Services that would incur such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services: (i) any litigation, Claims or actions filed by or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect adversely the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any threats of such matters, which matters may adversely affect the Facility in any material respect.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least thirty (30) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 30-day period, Operator shall maintain, at the Non-Operator Owner's expense, custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 30- day period, Operator may destroy or dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following:

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, encumbering, conveying, or making any license, exchange or other transfer or disposition of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by the Non-Operator Owner or Operator, the cost of which, in the case of Operator, would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the Non-Operator Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this

Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of the fully loaded costs incurred (whether paid or accrued) in the provision of Services, including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and other employees of Operator and its Affiliates performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and reasonably allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) costs incurred in response to an Emergency; (xi) any other cost reasonably determined by Operator to be an Operating Cost pursuant to the terms of this Agreement; and (xii) any other activity that Operator is required or requested to perform under this Agreement for the benefit of the Facility or that is approved in a Budget pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's ~~proportionate~~allocated share in ~~respect of WPCo's~~accordance with the Ownership ~~Interest~~Agreement of any such costs paid by the Non-Operator for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its ~~applicable~~allocated share in accordance with the Ownership Agreement of the invoiced amount ~~based on its proportionate share in respect of its Ownership Interest~~ no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear

directly its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit at its sole cost and expense and review of Operator's records with respect to all Operating Costs together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment. To the extent an Owner or Operator fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end ~~of~~on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; or (iii) a default by Operator in the performance of its obligations under this Agreement that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure or make substantial progress toward curing such default within ninety (90) days of written notice of such failure.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within ten (10) Business Days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (iii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership

~~Interest~~Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in default of its payment obligations under this Agreement, the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of

large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv) Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) if Operator will be handling environmentally regulated or Hazardous Materials, coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in ~~proportion to their~~respect of its fifty percent (50%) Ownership ~~Interests~~Interest, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) be underwritten by insurers that are rated A.M. Best "A- VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its ~~proportionate~~fifty percent (50%) share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to the Facility or the ownership, operation or maintenance thereof or Operator's performance under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its

~~proportionate~~fifty percent (50%) share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its ~~proportionate~~fifty percent (50%) share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials; provided, however, that the Environmental Liabilities for which WPCo is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its ~~proportionate~~fifty percent (50%) share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All costs associated therewith, including the costs of any outside consultants, legal

services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to the operation, maintenance, use or condition of the Facility unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except in the case of actual fraud, the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's ~~proportionate~~fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER,

EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its pro-rata ownership share of the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and

specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent ~~in connection with~~to the ~~sale or transfer of the Facility~~transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of ~~ownership in the Facility~~its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior

consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and

assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it.

Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of Ohio, exclusive of the conflicts-of-law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby submits to the non-exclusive jurisdiction of the courts of the State of Ohio, the United States District Court for the Southern District of Ohio and the appellate courts having jurisdiction over any appeals from such courts in connection with any action arising out of or relating to this Agreement and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
~~**Facility Retirement and**~~ **Decommissioning**	• Manage and contract with vendors and other parties to ~~implement a Facility and/or Site retirement and decommissioning plan~~perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site ~~retirement and decommissioning~~Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's allocated share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA

	Ref: Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:14:39 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\1. Project Nickel - Mitchell Plant OM Agreement [Auction Draft] [AEP Draft 08-06-2021].DOCX
Description	1. Project Nickel - Mitchell Plant OM Agreement [Auction Draft] [AEP Draft 08-06-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\2. Project Nickel - Mitchell Plant OM Agreement [Updated Auction Draft] [AEP Draft 9-17-2021].DOCX
Description	2. Project Nickel - Mitchell Plant OM Agreement [Updated Auction Draft] [AEP Draft 9-17-2021]
Rendering set	Standard

Legend:	
Insertion	
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Statistics:	
	Count
Insertions	121
Deletions	112
Moved from	0

Moved to	0
Style changes	0
Format changes	0
Total changes	233

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

TABLE OF CONTENTS

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the ~~Non-Operator Owner~~Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing ~~such~~the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the

Ownership Agreement. For the avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS[1]

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over ~~each~~an Owner, any other Person or

[1] NTD: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.

entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

~~"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) ("CertainTeed") and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.~~

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial

nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

~~"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.~~

~~"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.~~

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any ~~hazardous~~ substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the

Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners~~, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam~~.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements~~ (including the CertainTeed Contract)~~, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates at the Site exclusively for the Facility in the performance of its obligations under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) ~~five (5) percentage points (5%) above~~ the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.[2]

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

[2] NTD: To make consistent with the TSA.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the limitations on Operator's authority, and duties, as set forth in this Agreement and the Ownership Agreement.

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and/or the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator

for the performance of the Services.[3] To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall ~~use commercially reasonable efforts to~~ perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements ~~and~~ (vii) this Agreement; and (viii) the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity

[3] NTD: To confirm necessity/applicability and what is contemplated, given this is addressed in the PSA.

or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation~~,~~ and maintenance ~~and Decommissioning~~ of the Facility and shall ~~use commercially reasonable efforts to~~ obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation~~,~~ and maintenance ~~and Decommissioning~~ of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Owners if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance ~~or Decommissioning~~ of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][~~14~~]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide

[~~14~~] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with its past practices in the ordinary course of its business, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. The Facility shall be operated by Operator's Facility Personnel, and Operator shall be fully responsible for all the acts and omissions of all of its Facility Personnel, agents and any subcontractors, and Owners will look solely to Operator for the performance or non-performance of the Services. Operator shall, upon the written request of the Non-Operator Owner, for cause, remove from the site and the Facility workforce, the services of any employee or subcontractor.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or ~~about~~ the Facility (an "Emergency"), Operator shall take prompt reasonable action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than twenty-four (24) hours after the occurrence of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, ~~such~~reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonable cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not knowingly direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1 ~~5.3.1.1.~~ Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto.[25] No later than [ninety (90)][6] days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) ~~any~~a proposed ~~amendments to the~~annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonable requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect throughout the applicable Year, subject to revision, amendment and replacement in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual written agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2 ~~5.3.1.2.~~ Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3 ~~5.3.1.3.~~ Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly,

[25] **Note**: Initial ~~budgets~~budget and Plan to be attached on the Effective Date.
[6] NTD: To be consistent with Ownership Agreement.

Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be relieved from performing only those specific Services that were previously identified in writing to the Operating Committee that would incur such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's prior written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. ~~Upon~~Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect ~~adversely~~ the Facility ~~in any material respect~~; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any threats of such matters~~, which matters may adversely affect the Facility in any material respect~~. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least ~~thirty~~sixty (~~30~~60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the ~~30~~60-day period, Operator shall maintain~~, at the Non-Operator Owner's expense,~~ custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of

the ~~30~~60- day period, Operator may destroy or dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, subcontractors or representatives to):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by ~~the Non-Operator~~any Owner or Operator, the cost of which, in the case of Operator, would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the ~~Non-Operator~~any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its ~~allocated~~proportionate share in ~~accordance with the~~respect of its Ownership ~~Agreement~~Interest of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator [for its ~~allocated~~proportionate share in ~~accordance with the~~respect of its Ownership ~~Agreement~~Interest] of the ~~fully loaded~~actual, documented, reasonable out of pocket costs directly attributable to and incurred (whether paid or accrued) in the provision of Services, including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates directly attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and reasonably and directly allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; ~~(xi) any other cost reasonably determined by Operator to be an Operating Cost pursuant to the terms of this Agreement;~~ and (~~xii~~xi) any other activity that Operator is ~~required or~~expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement; provided, that in no event shall Operating Costs include overhead, back-office or similar costs, expenses or expenditures, or any other costs, expenses and expenditures that are

(or would be) incurred by Operator or any of its Affiliates independent of the Services, or any payments in respect of any of the foregoing.[7]

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's ~~allocated~~proportionate share in ~~accordance with the~~respect of WPCo's Ownership ~~Agreement~~Interest of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its ~~allocated~~applicable share ~~in accordance with the Ownership Agreement~~ of the invoiced amount based on its proportionate share in respect of its Ownership Interest no later than the Due Date, unless any invoiced amounts are disputed by the Non-Operator Owner in good faith (in which case the payment deadline with respect to the portion of such invoiced amounts that is disputed shall be tolled until such dispute is resolved in accordance with Section 14.7). For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its ~~allocated~~proportionate share in ~~accordance with the~~respect of its Ownership ~~Agreement~~Interest of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its ~~allocated~~proportionate share in ~~accordance with the~~respect of its Ownership ~~Agreement~~Interest of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment. To the extent an Owner or Operator fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end ~~on~~of the date of termination of the Ownership Agreement ~~(the~~

[7] NTD: To discuss scope of operating expenses, including allocation methodology for shared costs, as well as any costs that should be borne disproportionately (e.g., ELG Expenses).

~~"Term")~~. Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; [(iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 during any year] or (~~iii~~iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure ~~or make substantial progress toward curing~~ such default within ~~ninety~~sixty (~~90~~60) days of written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon thirty (30) days written notice to the Operator from and after (or concurrent with) the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) by WPCo of its Ownership Interest in the Facility to any Person which is not an Affiliate of WPCo.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within ~~ten~~thirty (~~10~~30) Business Days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (~~iii~~ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice of such failure by Operator. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its ~~allocated~~proportionate share in ~~accordance with the~~respect of its Ownership ~~Agreement~~Interest for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items [furnished on an Operating Cost basis], all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner~~, unless the Non-Operator Owner is then in default of its payment obligations under this Agreement~~, the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and

Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv) Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) ~~if Operator will be handling environmentally regulated or Hazardous Materials,~~ coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in ~~respect of its fifty percent (50%)~~proportion to their Ownership ~~Interest~~Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) be underwritten by insurers that are rated A.M. Best "A- VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, ~~Pollution Legal Liability insurance,~~ and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by

additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, ~~actual~~ fraud, willful violation of any Applicable Law, or willful breach of this Agreement or the Ownership Agreement or any other willful misconduct or any claims against or obligations of Non-Operator Owner or any of its Affiliates under or relating to the Compliance Agreement, dated as of hereof, by and among WPCo, the Non-Operator Owner, [Buyer] and American Electric Power Company, Inc. (the "Compliance Agreement"), arising out of actions (or inactions) of Operator, except to the extent arising from the express instructions of the Non-Owner Operator (such claims or obligations, the "Compliance Agreement Claims"). Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its ~~fifty percent (50%)~~proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to the ~~Facility or the ownership, operation or maintenance thereof or~~ Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, ~~actual~~ fraud, willful violation of any Applicable Law, or willful breach of this Agreement or the Ownership Agreement or other willful misconduct or Compliance Agreement Claims. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its ~~fifty percent (50%)~~proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its ~~fifty percent (50%)~~proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator

Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which ~~WPCo~~any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear ~~directly~~ its ~~fifty percent (50%)~~proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, ~~actual~~ fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to ~~the~~

~~operation, maintenance, use or condition of the Facility~~Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, fraud, willful violation of Applicable Law or willful breach of this Agreement or the Ownership Agreement or willful misconduct of a Party or Compliance Agreement Claims. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except ~~in~~ to the ~~case of actual fraud~~ extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, fraud, willful violation of Applicable Law or willful breach of this Agreement or the Ownership Agreement, or willful misconduct in connection with any Services, transactions, actions or inactions, or Compliance Agreement Claims, the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's ~~fifty percent (50%)~~proportionate share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

~~11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.~~

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall ~~use commercially reasonable efforts to~~ cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its ~~pro rata~~

ownership share of the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable~~, in whole or in part,~~ by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner ~~(in whole but not in part)~~ without such consent ~~to~~in connection with the ~~transferee of its Ownership Interest~~sale or transfer of the Facility, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of ~~its Ownership Interest~~ownership in the Facility is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of Owner, shall use reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services (i) with a cost included in the Operating Costs in excess of $[_____] or (ii) that may not be cancelled at any time without penalty. Each agreement with a third-party subcontractor shall reflect costs that are on an arms-length basis and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld or delayed, procure or enter into any agreement with any of its Affiliates (i) with a value in excess of $[_____] or (ii) that may not be cancelled at any time without penalty. Each agreement with an Affiliate of Operator shall reflect costs that are no greater in any material respect than Operator could obtain on an arms-length basis with a bona fide third party at such time.

14.4.3 If any such third-party subcontractor is hired to provide any such Services or one or more Affiliates perform Services as subagents, Service Provider shall remain liable for such subcontractor or Affiliates obligations hereunder and for any breach by such subcontractor or Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event described below that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events ~~include~~comprise the following, so long as in each case the requirements of the

foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent

breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any

Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of ~~Ohio~~Delaware, exclusive of the conflicts-of-law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby submits to the ~~non-~~exclusive jurisdiction of the ~~courts of the State of Ohio~~Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the ~~Southern~~ District of ~~Ohio~~Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County, and the appellate courts having jurisdiction over any appeals from any such ~~courts~~applicable court in connection with any action arising out of or relating to this Agreement and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts).

[*Signature page follows*.]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES[8]

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.

[8] NTD: Services scope to be discussed/confirmed in the context of anticipated operational needs and current scope of services.

Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service. **Work Schedule –** Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill

	mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community. **Regulatory –** Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel,

	qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval

Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Facility Retirement and Decommissioning	• Manage and contract with vendors and other parties to ~~perform Decommissioning Work~~implement a Facility and/or Site retirement and decommissioning plan. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a

	portion of the Facility and/or Site ~~Decommissioning~~retirement and decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
~~KPCo's allocated share of~~ Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA

	Ref: Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:15:12 AM

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Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\2. Project Nickel - Mitchell Plant OM Agreement [Updated Auction Draft] [AEP Draft 9-17-2021].DOCX
Description	2. Project Nickel - Mitchell Plant OM Agreement [Updated Auction Draft] [AEP Draft 9-17-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\3. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 9-30-2021].DOCX
Description	3. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 9-30-2021]
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Legend:	
Insertion	
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Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
	Count
Insertions	254
Deletions	174
Moved from	2

Moved to	2
Style changes	0
Format changes	0
Total changes	432

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

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Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS[1]

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

[1] NTD: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each

Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act,

as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates at the Site ~~exclusively for~~[2] to perform services in respect of the Facility ~~in the performance of its obligations~~ under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision,

[2] Note to Purchaser: There are certain personnel employed by WPCo and AEPSC that perform services at the Site from time to time but are not dedicated exclusively to the Facility or the Site.

department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.[2]

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

[2] ~~NTD: To make consistent with the TSA.~~

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all

cases, to the Operator's duties and the limitations on Operator's authority~~, and duties~~, as set forth in this Agreement and the Ownership Agreement.

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and~~/or~~ as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the

name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services.[3] To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the

[3] NTD: To confirm necessity/applicability and what is contemplated, given this is addressed in the PSA. Note to Purchaser: This Agreement is intended to stand alone from the Nickel transaction and will be filed in separate regulatory proceedings, so we thought those obligations would need to run directly between the Owners as well.

Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning[4] of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation ~~and~~, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the ~~Owners~~Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][5]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all

[4] Note to Purchaser: References to Decommissioning added given that the Owners may opt to decommission/provide for early retirement of the plant.

[5] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with ~~its~~Non-Operator Owner's past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. ~~The Facility shall be operated by Operator's Facility Personnel, and Operator shall be fully responsible for all the acts and omissions of all of its Facility Personnel, agents and any subcontractors, and Owners will look solely to Operator for the performance or non-performance of the Services.~~[6] Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the ~~site~~Site and the Facility workforce, the services of any employee or ~~subcontractor~~other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

[6] Note to Purchaser: The scope of Operator's responsibility for personnel is set forth in detail in Articles X and XI.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt ~~reasonable~~ action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than ~~twenty-four~~forty-eight (~~24~~48) business hours after ~~the occurrence~~Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall ~~reasonable~~reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not ~~knowingly~~ direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. ~~5.3.1.1~~ Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto.[~~5~~7] No later than [ninety (90)][~~6~~8] days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) ~~a~~any proposed amendments to the annual capital budget[9], (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or ~~reasonable~~reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed

[~~5~~7] **Note**: Initial budget and Plan to be attached on the Effective Date.

[~~6~~] ~~NTD: To be consistent with Ownership Agreement.~~[8] Note to Purchaser: Subject to further review by AEP. Timing for producing budgets would need to be generally consistent with AEP's overall budgeting processes for its utilities and generation resources.

[9] Note to Purchaser: The capital budget under the Ownership Agreement is a multi-year budget that persists over the term (as opposed annual operating budgets which are single-year budgets that need to be adopted annually).

budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect ~~throughout the applicable Year, subject to revision, amendment and replacement~~ in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual ~~written~~ agreement[10] may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. ~~5.3.1.2~~ Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. ~~5.3.1.3~~ Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be relieved from performing only those specific Services that ~~were previously identified~~would result in ~~writing to~~ the ~~Operating Committee that would incur~~incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's ~~prior~~ written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect

[10] Note to Purchaser: Written amendments may require WVPSC regulatory approval, which would be burdensome for this type of procedural change that can be mutually agreed between the Owners.

to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, ~~subcontractors~~Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent

Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which~~, in the case of Operator,~~ would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of all Operating Costs, all as further described below.[11] All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator ~~[~~for its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest]~~Agreement of the ~~actual, documented, reasonable out of pocket~~fully loaded costs~~ directly attributable to and~~ incurred (whether paid or accrued) in the provision of Services, including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer

[11] Note to Purchaser: Ownership Agreement allocates certain costs (e.g. ELG Expenses) inconsistent with proportional share in accordance with Ownership Interest.

equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates ~~directly~~ attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and reasonably ~~and directly~~ allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement~~; provided, that in no event shall Operating Costs include overhead, back-office or similar costs, expenses or expenditures, or any other costs, expenses and expenditures that are (or would be) incurred by Operator or any of its Affiliates independent of the Services, or any payments in respect of any of the foregoing~~. [~~7~~12]

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's ~~proportionate~~allocated share in ~~respect of WPCo's~~accordance with the Ownership ~~Interest~~Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its ~~applicable~~allocated share in accordance with the Ownership Agreement of the invoiced amount ~~based on its proportionate share in respect of its Ownership Interest~~ no later than the Due Date~~, unless any invoiced amounts are disputed by the Non-Operator Owner in good faith (in which case the payment deadline with respect to the portion of such invoiced amounts that is disputed shall be tolled until such dispute is resolved in accordance with Section 14.7)~~. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books

[~~7~~12] NTD: To discuss scope of operating expenses, including allocation methodology for shared costs, as well as any costs that should be borne disproportionately (e.g., ELG Expenses).

and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment. To the extent an Owner or Operator fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end ~~of~~on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; ~~[~~(iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for three (3) Years during ~~any year~~]the Term, or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ~~thirty~~ninety (~~30~~90) days written notice to ~~the~~ Operator from and after (or concurrent with) the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) by WPCo of its Ownership Interest in the Facility to any Person which is not an Affiliate of WPCo, except in the case of an assignment of this Agreement to a successor Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) ~~Business Days~~days

after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure ~~by Operator~~. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its ~~proportionate~~allocated share in ~~respect of its~~accordance with the Ownership ~~Interest~~Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items ~~[~~furnished on an Operating Cost basis~~]~~, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv) Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the

operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) be underwritten by insurers that are rated A.M. Best "A- VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, [Pollution Legal Liability insurance,][13] and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement ~~or the Ownership Agreement or any other willful misconduct or any claims against or obligations of Non-Operator Owner or any of its Affiliates under or relating to the Compliance Agreement, dated as of hereof, by and among WPCo, the Non-Operator Owner, [Buyer] and American Electric Power Company, Inc. (the "Compliance Agreement"), arising out of actions (or inactions) of Operator, except to the extent arising from the express instructions of~~

[13] NTD: Subject to further review by AEP.

~~the Non-Owner Operator (such claims or obligations, the "Compliance Agreement Claims").~~[14] Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to ~~the~~ Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement ~~or the Ownership Agreement or other willful misconduct or Compliance Agreement Claims~~. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

[14] Note to Purchaser: This agreement needs to stand alone apart from the Nickel transaction. Each of the other agreements should be governed by their own terms.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the actual ~~or alleged~~ existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this

Agreement~~ or the Ownership Agreement or willful misconduct of a Party or Compliance Agreement Claims~~. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this~~ Agreement or the Ownership~~ Agreement, or willful misconduct in connection with any Services, ~~transactions, actions or inactions, or Compliance Agreement Claims,~~ the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's ~~proportionate~~fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH

DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any

receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its ~~ownership share of~~Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent ~~in connection with~~to the ~~sale or transfer of the Facility~~transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of ~~ownership in the Facility~~its Ownership Interest is in accordance

with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of ~~Owner~~the Owners, shall use reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services (i) with a cost included in the Operating Costs in excess of $~~[_____] or (ii) that may not be cancelled at~~500,000 in any ~~time without penalty~~Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to

perform the Services) (i) with a committed value in excess of $[_____]500,000 or (ii) that may not be cancelled at any timeupon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arms-length basis with a bona fide third party at such time.

14.4.3 If any such third-party subcontractor is hired to provide any such Services or one or more Affiliates perform Services as subagents, Service Provider shall remain liable for such subcontractor or Affiliates obligations hereunder and for any breach by such subcontractor or Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider) Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, but without relieving Operator of any of its obligations hereunder.

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event described below that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events comprise the followinginclude, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the

retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of ~~Delaware~~New York, exclusive of the conflicts~~-~~ of~~-~~ law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby ~~submits~~agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the ~~Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the District~~aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of ~~Delaware,~~ or ~~in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County~~relating to this Agreement and the transactions contemplated hereby, and the appellate courts ~~having jurisdiction over any appeals~~ from any ~~such applicable court~~thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain

in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner's sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES[815]

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and

[815] NTD: Services scope to be discussed/confirmed in the context of anticipated operational needs and current scope of services.

	impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service. **Work Schedule –** Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval

	of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community. **Regulatory** – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.

Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls.

	Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
~~**Facility Retirement and**~~ **Decommissioning**	• Manage and contract with vendors and other parties to ~~implement a Facility and/or Site retirement and decommissioning plan~~perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site ~~retirement and decommissioning~~Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:18:20 AM

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Description	3. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 9-30-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\4. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-8-2021].DOCX
Description	4. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-8-2021]
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Moved cell	
Split/Merged cell	
Padding cell	

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Moved from	2

Moved to	2
Style changes	0
Format changes	0
Total changes	418

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

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Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS[1]

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

[1] NTD: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each

Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act,

as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates at the Site[2] to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision,

[2] Note to Purchaser: There are certain personnel employed by WPCo and AEPSC that perform services at the Site from time to time but are not dedicated exclusively to the Facility or the Site. **Note to AEP**: Please confirm how costs for these employees will be allocated to the Facility.

department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services.[3] To the extent that, notwithstanding its commercially

[3] NTD: To confirm necessity/applicability and what is contemplated, given this is addressed in the PSA. Note to Purchaser: This Agreement is intended to stand alone from the Nickel

reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or

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the PSA. Note to Purchaser: This Agreement is intended to stand alone from the Nickel transaction and will be filed in separate regulatory proceedings, so we thought those obligations would need to run directly between the Owners as well. **Note to AEP**: to discuss how consents/assignments will be addressed and we need to understand what the contracts and POs in question are.

ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning[4] of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][5]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. §

[4] Note to Purchaser: References to Decommissioning added given that the Owners may opt to decommission/provide for early retirement of the plant.

[5] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned.[6] Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event

[6] Note to Purchaser: The scope of Operator's responsibility for personnel is set forth in detail in Articles X and XI.

later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project

Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto.[7] No later than [ninety (90)][8] days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget[9], (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement.

[7] **Note**: Initial budget and Plan to be attached on the Effective Date.

[8] Note to Purchaser: Subject to further review by AEP. Timing for producing budgets would need to be generally consistent with AEP's overall budgeting processes for its utilities and generation resources.

[9] Note to Purchaser: The capital budget under the Ownership Agreement is a multi-year budget that persists over the term (as opposed annual operating budgets which are single-year budgets that need to be adopted annually).

Operator and the Non-Operator Owner by mutual agreement[10] may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

[10] Note to Purchaser: Written amendments may require WVPSC regulatory approval, which would be burdensome for this type of procedural change that can be mutually agreed between the Owners.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to

the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below.[11] All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the [fully loaded][12] costs to the extent incurred (whether paid or accrued) in the provision of Services, including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates reasonably

[11] Note to Purchaser: Ownership Agreement allocates certain costs (e.g. ELG Expenses) inconsistent with proportional share in accordance with Ownership Interest.

[12] **Note to AEP**: Please provide a specific definition describing what is contemplated by "fully loaded."

attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and reasonably allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement. [12]13

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. In the event any invoiced amounts are disputed by the Non-Operator Owner in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of the Non-Operator Owner, then the Operator shall repay to the Non-Operator Owner such invoiced amount plus interest thereon accrued each day at the Late Payment Rate from payment by the Non-Operator Owner until such amount (plus accrued interest) is repaid in full to the Non-Operator Owner by the Operator. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as

[12]13 NTD: To discuss scope of operating expenses, including allocation methodology for employees or shared costs, as well as any costs that should be borne disproportionately (e.g., ELG Expenses).

applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment. To the extent an Owner or Operator fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for ~~three (3) Years~~any Year during the Term, or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator from and after (or concurrent with) the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) by WPCo of its Ownership Interest in the Facility to any Person which is not an Affiliate of WPCo, except in the case of an assignment of this Agreement to a successor Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall

invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of

large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv) Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) be underwritten by insurers that are rated A.M. Best "A- VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees,

affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, [Pollution Legal Liability insurance,][13][14] and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement (provided that notwithstanding anything to the contrary, for all purposes of this Agreement, the failure to follow any express instructions of the Non-Operator Owner in connection with (i) the Ownership Agreement or (ii) the Compliance Agreement by and among American Electric Power Company, Inc., Kentucky Power Company, Wheeling Power Company and [BUYER] shall be deemed to be willful misconduct of the Operator under this Agreement).[14][15] Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any

[13][14] NTD: Subject to further review by AEP.
[14][15] Note to Purchaser: This agreement needs to stand alone apart from the Nickel transaction. Each of the other agreements should be governed by their own terms.

and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the ~~actual~~ existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or

otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors,

suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's

Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner

and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services ~~(i)~~ with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arms-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, but without relieving Operator of any of its obligations hereunder.[16]

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for

[16] **Note to AEP**: To discuss rationale for this and whether any such delegation is contemplated.

any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event described below that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events ~~include~~comprise the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner’s sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner’s Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and

tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES[15][17]

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and

[15][17] NTD: Services scope to be discussed/confirmed in the context of anticipated operational needs and current scope of services.

	impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service. **Work Schedule –** Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval

	of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community. **Regulatory –** Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.

Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls.

	Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:19:17 AM

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Description	5. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-16-2021]
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Split/Merged cell	
Padding cell	

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Moved to	0
Style changes	0
Format changes	0
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OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

TABLE OF CONTENTS

Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS[1]

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

~~[1] NTD: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.~~

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each

Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the

Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800~~MW~~ megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates ~~at the Site~~[2] to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

~~[2] Note to Purchaser: There are certain personnel employed by WPCo and AEPSC that perform services at the Site from time to time but are not dedicated exclusively to the Facility or the Site. **Note to AEP**: Please confirm how costs for these employees will be allocated to the Facility.~~

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all

cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

["Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).][1]

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A

[1] Note to Purchaser: Under review by AEP.

(collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services.[3] To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to

~~[3] NTD: To confirm necessity/applicability and what is contemplated, given this is addressed in the PSA. Note to Purchaser: This Agreement is intended to stand alone from the Nickel transaction and will be filed in separate regulatory proceedings, so we thought those obligations would need to run directly between the Owners as well. **Note to AEP**: to discuss how consents/assignments will be addressed and we need to understand what the contracts and POs in question are.~~

directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning[4] of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as

[4] ~~Note to Purchaser: References to Decommissioning added given that the Owners may opt to decommission/provide for early retirement of the plant.~~

appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][52]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager

[52] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned.[6] Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

[6] ~~Note to Purchaser: The scope of Operator's responsibility for personnel is set forth in detail in Articles X and XI.~~

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto.[7] No later than ~~[~~ninety (90)~~]~~[8] days

[7] ~~**Note**: Initial budget and Plan to be attached on the Effective Date.~~

prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget[9], (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement[10] may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

~~[8] Note to Purchaser: Subject to further review by AEP. Timing for producing budgets would need to be generally consistent with AEP's overall budgeting processes for its utilities and generation resources.~~

~~[9] Note to Purchaser: The capital budget under the Ownership Agreement is a multi-year budget that persists over the term (as opposed annual operating budgets which are single-year budgets that need to be adopted annually).~~

~~[10] Note to Purchaser: Written amendments may require WVPSC regulatory approval, which would be burdensome for this type of procedural change that can be mutually agreed between the Owners.~~

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the

following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below.[11] All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

[11] ~~Note to Purchaser: Ownership Agreement allocates certain costs (e.g. ELG Expenses) inconsistent with proportional share in accordance with Ownership Interest.~~

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the ~~[~~fully ~~loaded]~~[12]distributed costs ~~to the extent~~ incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates ~~reasonably~~ attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and ~~reasonably~~ allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement. ~~13~~

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice

~~[12] **Note to AEP**: Please provide a specific definition describing what is contemplated by "fully loaded."~~

~~[13] NTD: To discuss scope of operating expenses, including allocation methodology for employees or shared costs, as well as any costs that should be borne disproportionately (e.g., ELG Expenses).~~

submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. ~~In the event any invoiced amounts are disputed by the Non-Operator Owner in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of the Non-Operator Owner, then the Operator shall repay to the Non-Operator Owner such invoiced amount plus interest thereon accrued each day at the Late Payment Rate from payment by the Non-Operator Owner until such amount (plus accrued interest) is repaid in full to the Non-Operator Owner by the Operator.~~ For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent ~~an Owner or Operator~~a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any ~~Year~~two Years during the Term (provided that

written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator ~~from and~~delivered no later than ninety (90) days after ~~(or concurrent with)~~ the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) ~~by~~that results in WPCo ~~of its~~'s Ownership Interest ~~in the Facility to any Person which is not~~no longer being owned directly or indirectly by AEP or an Affiliate ~~of WPCo~~thereof, except in the case of an transfer, assignment ~~of this Agreement~~, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that

Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or

loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv) Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates[3], be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, ~~[~~Pollution Legal Liability insurance,~~]~~[14] and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles

[3] Note to Purchaser: AEP's captive insurer is not rated.
[14] ~~NTD: Subject to further review by AEP.~~

or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement~~ (provided that notwithstanding anything to the contrary, for all purposes of this Agreement, the failure to follow any express instructions of the Non-Operator Owner in connection with (i) the Ownership Agreement or (ii) the Compliance Agreement by and among American Electric Power Company, Inc., Kentucky Power Company, Wheeling Power Company and [BUYER] shall be deemed to be willful misconduct of the Operator under this Agreement)~~.[15] Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Facility.[4] For the avoidance of

~~[15] Note to Purchaser: This agreement needs to stand alone apart from the Nickel transaction. Each of the other agreements should be governed by their own terms.~~

[4] Note to Purchaser: Section 2.1 of the Compliance Agreement contains an indemnity by WPCo for exceedances of Mitchell emissions limitations caused by WPCo. We thought it made more sense to reference that indemnity (the reference is made generically since this agreement may be executed prior to the Compliance Agreement) rather than include an additional duplicative indemnity.

doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by

the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the

Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties

directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's

Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner

and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, ~~but without relieving Operator of any of its obligations hereunder~~subject to Section 14.4.3.[16]

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for

[16] ~~**Note to AEP**: To discuss rationale for this and whether any such delegation is contemplated.~~

any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event ~~described below~~ that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events ~~comprise~~include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner’s sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner’s Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and

tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES[17]

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and

[17] ~~NTD: Services scope to be discussed/confirmed in the context of anticipated operational needs and current scope of services.~~

	impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service. **Work Schedule –** Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval

	of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community. **Regulatory** – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.

Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls.

	Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:19:57 AM

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Description	5. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-16-2021]
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Description	6. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-21-2021]
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Moved cell	
Split/Merged cell	
Padding cell	

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Deletions	101
Moved from	5

Moved to	5
Style changes	0
Format changes	0
Total changes	193

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

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Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental

Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act

(15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800 megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment

that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

["Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).[1]

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

[1] ~~Note to Purchaser: Under review by AEP.~~

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services (including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or

ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][21]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the

[21] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto. No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be

relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or

dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the fully distributed costs incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25^{th}) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and

the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any two Years during the Term (provided that written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of

written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator delivered no later than ninety (90) days after the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) that results in WPCo's Ownership Interest no longer being owned directly or indirectly by AEP or an Affiliate thereof, except in the case of an transfer, assignment, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility

operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv)

Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates[32], be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

[32] Note to Purchaser: AEP's captive insurer is not rated.

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates), including pertaining to the allocation of emission limitations associated with the Facility.[4] For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the

[4] ~~Note to Purchaser: Section 2.1 of the Compliance Agreement contains an indemnity by WPCo for exceedances of Mitchell emissions limitations caused by WPCo. We thought it made more sense to reference that indemnity (the reference is made generically since this agreement may be executed prior to the Compliance Agreement) rather than include an additional duplicative indemnity.~~

condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed

as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers, consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the

foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, subject to Section 14.4.3.

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site),

accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested,

postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with,

violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth

herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner’s sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner’s Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner’s sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:21:59 AM

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Description	7. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-22-2021]
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Format changes	0
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OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

TABLE OF CONTENTS

Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental

Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act

(15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800 megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment

that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

"Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services

(including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint

imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][1]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance

[1] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto. No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be

relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or

dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the fully distributed costs incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25th) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and

the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any two Years during the Term (provided that written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of

written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator delivered no later than ninety (90) days after the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) that results in WPCo's Ownership Interest no longer being owned directly or indirectly by AEP or an Affiliate thereof, except in the case of an transfer, assignment, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility

operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv)

Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates[2], be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

[2] ~~Note to Purchaser: AEP's captive insurer is not rated.~~

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates), including pertaining to the allocation of emission limitations associated with the Facility. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous

Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY

FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers,

consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator

Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis

and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, subject to Section 14.4.3.

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect

performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain

in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner's sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:23:25 AM

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Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\8. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-25-2021].DOCX
Description	8. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-25-2021]
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Format changes	0
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OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____], 2021

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MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental

Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act

(15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800 megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment

that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

"Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services

(including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint

imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][1]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance

[1] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto. No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be

relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or

dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the fully distributed costs incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25^{th}) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and

the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any two Years during the Term (provided that written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of

written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator delivered no later than ninety (90) days after the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) that results in WPCo's Ownership Interest no longer being owned directly or indirectly by AEP or an Affiliate thereof, except in the case of an transfer, assignment, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility

operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv)

Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates, be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates), including pertaining to the allocation of emission limitations associated with the Facility. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous

Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY

FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers,

consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator

Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis

and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, subject to Section 14.4.3.

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect

performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain

in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner's sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:24:52 AM

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Description	8. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-25-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\9. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-25-2021].DOCX
Description	9. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-25-2021]
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Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	0
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Format changes	0
Total changes	4

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____]~~, 2021~~

TABLE OF CONTENTS

Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental

Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act

(15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800 megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment

that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

"Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services

(including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint

imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][1]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance

[1] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto. No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be

relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or

dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the fully distributed costs incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25^{th}) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and

the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any two Years during the Term (provided that written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of

written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator delivered no later than ninety (90) days after the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) that results in WPCo's Ownership Interest no longer being owned directly or indirectly by AEP or an Affiliate thereof, except in the case of an transfer, assignment, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility

operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv)

Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates, be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates), including pertaining to the allocation of emission limitations associated with the Facility. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous

Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY

FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers,

consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator

Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis

and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, subject to Section 14.4.3.

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect

performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain

in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner's sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:30:55 AM

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Description	9. Project Nickel - Mitchell Plant OM Agreement [Liberty Draft 10-25-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant O&M Agreement\10. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-25-2021].DOCX
Description	10. Project Nickel - Mitchell Plant OM Agreement [AEP Draft 10-25-2021]
Rendering set	Standard

Legend:	
Insertion	
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Moved cell	
Split/Merged cell	
Padding cell	

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Deletions	16
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Moved to	0
Style changes	0
Format changes	0
Total changes	28

Exhibit C
[Final Form]

OPERATIONS AND MAINTENANCE AGREEMENT

by and between

KENTUCKY POWER COMPANY, as the Non-Operator Owner

and

WHEELING POWER COMPANY, as the Operator

Dated as of

[_____]

TABLE OF CONTENTS

Page

MITCHELL PLANT OPERATIONS AND MAINTENANCE AGREEMENT

This OPERATIONS AND MAINTENANCE AGREEMENT (this "Agreement"), dated as of [_____] (the "Effective Date"), is entered by and between WHEELING POWER COMPANY, a West Virginia corporation (in its capacity as the operator of the Facility, "Operator" and in its capacity as an owner of the Facility, "WPCo") and KENTUCKY POWER COMPANY, a Kentucky corporation qualified as a foreign corporation in West Virginia (in its capacity as an owner of the Facility, the "Non-Operator Owner" and, together with WPCo, each an "Owner" and, together, the "Owners").

RECITALS

1. Owners each own an undivided Ownership Interest in the Facility (these and other capitalized terms are defined in Article II).

2. On the date hereof, WPCo and the Non-Operator Owner have entered into that certain Mitchell Plant Ownership Agreement, setting forth the respective rights, duties and obligations of the Owners with respect to each other and the Facility in their capacities as the Owners thereof (the "Ownership Agreement").

3. Pursuant to the Ownership Agreement, WPCo has agreed to manage the day-to-day operations and maintenance of the Facility as Operator pursuant to the terms of this Agreement.

4. Operator and the Non-Operator Owner desire to execute this Agreement to set forth the respective rights, duties and obligations of WPCo, in its capacity as Operator of the Facility, and the Non-Operator Owner, in its capacity as an Owner of an undivided interest as a co-tenant in the Facility.

NOW, THEREFORE, in consideration of the foregoing premises, and of the mutual covenants, undertakings and conditions set forth below, the Parties agree as follows:

ARTICLE I - AGREEMENT

1.1 Agreement. This Agreement consists of the recitals, and the terms and conditions set forth in this Agreement, as well as the appendices that are referenced in the table of contents and attached to this Agreement.

1.2 Relationship of the Parties. Operator shall perform the Services in its capacity as an independent contractor of the Owners and as principal on its own behalf as an Owner. Subject to any limitations set forth in this Agreement and the Ownership Agreement, the Owners delegate to Operator, and Operator accepts from the Owners, the responsibility of providing the Services at the Facility. The Owners and Operator agree that the scope of delegation is strictly limited to the matters set forth in this Agreement and the Ownership Agreement. Without limiting the generality of the foregoing, the Owners retain the ultimate authority and obligation to determine whether and to what extent the Facility operates, and Operator shall not cause the Facility to generate power except as expressly directed to do so by the Owners or any dispatching authority specified by the Owners in accordance with the Ownership Agreement. For the

avoidance of doubt, any provision of this Agreement requiring the delegation of authority, direction, consent or authorization with respect to the Owners shall mean the delegation, direction, consent or authorization of both Owners (or the Operating Committee) in accordance with the Ownership Agreement (except to the extent the Ownership Agreement gives exclusive authority to the Non-Operator Owner thereunder, in which case such delegation of authority, direction, consent or authorization with respect to the Owners shall mean exclusively the delegation, direction, consent or authorization of the Non-Operator Owner).

1.3 Entire Agreement. This Agreement, together with the Ownership Agreement, contains the entire agreement between the Parties with respect to Operator's provision of Services at the Facility and supersedes all prior negotiations, undertakings and agreements.

ARTICLE II - DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears, capitalized terms have the meanings specified in this Article II. The singular includes the plural, as the context requires. The terms "includes" and "including" mean "including, but not limited to." The terms "ensure" and "reasonable efforts" will not be construed as a guarantee, but will imply only a duty to use reasonable efforts and care, consistent with Prudent Operation and Maintenance Practices, and will include reasonable expenditures of money and at least such efforts as Operator would undertake for its own assets, services or maintenance, or for services provided to an Affiliate. "Gross negligence" will not be construed as simple or ordinary negligence, it being the intent of the Parties to preserve a distinction between errors made inadvertently while attempting to perform with due care and actions taken with a knowing disregard for a foreseeable risk. "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day. "Month" (regardless of capitalization) shall mean a calendar month. References to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement, except where expressly stated otherwise.

"AEP" shall mean American Electric Power Company, Inc., a New York corporation and an Affiliate of WPCo.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of WPCo.

"Affiliate" means, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise. The Non-Operator Owner shall not be deemed an Affiliate of the Operator.

"Agreement" has the meaning set forth in the preamble to this Agreement.

"Applicable Law" means all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, Governmental

Approvals, Permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other Person or entity (as to that Person or entity), this Agreement, any Facility asset or the Facility, as applicable.

"Bankruptcy" means a situation in which (i) a Person files a voluntary petition in bankruptcy or is adjudicated as bankrupt or insolvent, or files any petition or answer or consent seeking any reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable United States federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, conservator or liquidator of such Person or of all or any substantial part of its properties (the term "acquiesce," as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (ii) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against any Person seeking a reorganization, arrangement, moratorium, composition, readjustment, liquidation, dissolution or similar relief under the present or any future United States federal bankruptcy act, or any other present or future Applicable Law relating to bankruptcy, insolvency or other relief for debtors, and such Person acquiesces and such decree remains unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such Person is appointed with the consent or acquiescence of such Person and such appointment remains unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (iii) a Person admits in writing its inability to pay its debts as they mature; (iv) a Person gives notice, to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (v) a Person makes a general assignment for the benefit of creditors or takes any other similar action for the protection or benefit of creditors (other than in the ordinary course of such party's business).

"Budget" means an annual operating budget and annual capital budget adopted or amended pursuant to the Ownership Agreement.

"Business Day" means any day other than (i) a Saturday or Sunday or (ii) a day on which banks in West Virginia or Ohio are required or permitted to be closed.

"Claims" means any and all claims, assertions, demands, suits, investigations, inquiries, and proceedings.

"Confidential Information" means, with respect to each Party, all written or oral information of a proprietary, intellectual or similar nature, relating to the business, projects, operations, activities or affairs of a Party and its Affiliates, whether of a technical or financial nature or otherwise (including environmental assessment reports, financial information, business plans and proposals, ideas, concepts, trade secrets, know-how, processes, pricing of services or products, and other technical or business information, whether concerning this Agreement, each Party's respective businesses or otherwise) that has not been publicly disclosed and that the receiving Party acquires directly or indirectly from the disclosing Party.

"Cost Allocation Manual" means the Cost Allocation Manual of Operator and its Affiliates, as may be amended from time to time, as filed with FERC and, to the extent required, the WVPSC.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the generating units and other property, plant, and equipment comprising the Facility, including any common facilities associated with each generating unit that are to be permanently removed from service, the restoration of the Site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Work" shall mean all work reasonably necessary or undertaken to Decommission the Facility, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Facility in accordance with Applicable Law.

"Dollars" means United States Dollars, the lawful currency of the United States of America.

"Due Date" means, with respect to any Operator invoice, the date that is thirty (30) days following the date on which Operator submits the invoice to the Non-Operator Owner in accordance with Article VII. If such date does not fall on a Business Day, then the Due Date shall be the first Business Day after such date.

"Effective Date" means the date set forth in the preamble to this Agreement.

"Emergency" has the meaning set forth in Section 3.8.

"Encumbrance" means (i) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (ii) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary Claim; and (iii) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Environmental Law" means any Applicable Law pertaining to (i) the regulation or protection of employee health or safety, public health or safety, or the indoor or outdoor environment; (ii) the conservation, management, development, control or use of land, natural resources, or wildlife; (iii) the protection or use of surface water or ground water; (iv) the management, manufacture, possession, presence, use, generation, treatment, storage, disposal, transportation, or handling of, or exposure to any Hazardous Material; or (v) pollution (including release of any hazardous substance to air, land, surface water and ground water), including the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. §§ 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§ 1801 et seq.), the Resource Conservation and Recovery Act, as amended (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act

(15 U.S.C. §§ 2601 et seq.), the Clean Water Act (33 U.S.C. §§ 7401 et seq.), the Clean Air Act, as amended (42 U.S.C. §§ 7401 et seq.), the Safe Drinking Water Act (42 U.S.C. §§ 300f et seq.), the Uranium Mill Tailings Radiation Control Act (42 U.S.C. §§ 7901 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§ 136 et seq.), all as now or hereafter amended or supplemented, and any regulations promulgated thereunder, and any other similar federal, state, or local statutes, rules and regulations.

"Environmental Liability" has the meaning set forth in Section 10.3.1.

"Facility" means the Mitchell Power Generation Facility consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800 megawatts, and associated plant, equipment and real estate, located in Moundsville, West Virginia, and includes all electrical or thermal devices, and related structures and connections that are located at the Site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Facility Agreements" means this Agreement, the Ownership Agreement, all applicable interconnection agreements, fuel supply agreements, coal ash, gypsum and other combustion byproduct disposal or sales agreements, all applicable equipment maintenance agreements in effect or entered into, and as amended, supplemented or modified, from time to time by the Operator or the Owners relating to the Facility, all equipment contracts with regard to warranties and equipment design and specifications, and any other agreement reasonably designated by the Owners as a "Facility Agreement."

"Facility Equipment" has the meaning set forth in Section 13.1.

"Facility Personnel" means those individuals who are employed by Operator or its Affiliates to perform services in respect of the Facility under this Agreement.

"Force Majeure Event" has the meaning set forth in Section 14.6.1.

"Governmental Approval" means any consent, license, approval, exemption, Permit, "no objection certificate" or other authorization of whatever nature that is required to be granted by any Governmental Authority or any third party with respect to the siting, construction, operation, service and maintenance of the Facility in accordance with this Agreement, or otherwise necessary to enable an Owner or Operator to exercise its rights, or observe or perform its obligations, under this Agreement.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"Hazardous Materials" means (a) any petroleum or petroleum products, radioactive materials, asbestos in any form that is or could become friable, urea formaldehyde foam insulation, 1.4 Dioxane, per-and polyfluoroalkyl substances, and transformers or other equipment

that contain dielectric fluid containing polychlorinated biphenyls; (b) any chemicals, materials or substances that are now or hereafter become defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous wastes," "restricted hazardous wastes," "toxic substances," "toxic pollutants," "pollution," "pollutants," "regulated substances," or words of similar import under Applicable Law; or (c) any other chemical, material, substance or waste declared to be or regulated as hazardous, toxic or polluting material by any Governmental Authority, exposure to which is now or hereafter prohibited, limited or regulated by any Governmental Authority.

"Late Payment Rate" means a rate of interest per annum equal to the lesser of (i) the "prime" rate of interest per annum for corporate loans as published in The Wall Street Journal under "Money Rates" as such rate may be in effect from time to time during the period the delinquent amount remains outstanding plus four (4) percentage points (4%) per annum or (ii) the maximum rate of interest permitted by Applicable Law.

"Lender" means any entity or entities providing financing or refinancing to an Owner under any financing agreements in connection with the construction or permanent financing for the Facility, and their permitted successors and assigns.

"Liabilities" means, collectively, any and all Claims, damages, judgments, losses, obligations, liabilities, actions and causes of action, fees (including reasonable attorneys' fees and disbursements), costs (including court costs), expenses, penalties, fines and sanctions.

"Manuals" means Facility Equipment manuals, system descriptions, system operating instructions, equipment maintenance instructions and pertinent design documentation created by the Persons that constructed the Facility or manufactured its equipment, and the operation and maintenance procedures and Facility systems descriptions, training, safety, chemistry and environmental manuals, together with the documents and schedules described in such manuals.

"NERC" means the North American Electric Reliability Corporation.

"Non-Operator Owner" has the meaning set forth in the preamble to this Agreement.

"Non-Operator Owner Indemnitees" has the meaning set forth in Section 10.1.

"Operating Committee" means the "Operating Committee" as composed from time to time pursuant to and defined in the Ownership Agreement.

"Operating Costs" has the meaning set forth in Section 7.2.1.

"Operator" has the meaning set forth in the preamble to this Agreement.

"Operator Indemnitees" has the meaning set forth in Section 10.2.

"Operator Proprietary Information" has the meaning set forth in Section 13.3.

"Owner" has the meaning set forth in the preamble to this Agreement.

"Ownership Agreement" has the meaning set forth in the recitals to this Agreement.

"Ownership Interest" has the meaning set forth in the Ownership Agreement.

"Party" means a party to this Agreement and "Parties" means, collectively, the parties to this Agreement, unless the context clearly requires a different construction.

"Permit" means any permit, license, consent, approval or certificate that is required or used for the operation or maintenance of the Facility or the performance of any Service and includes Permits required under Environmental Laws.

"Person" means any Party, individual, partnership, corporation, association, limited liability company, business trust, government or political subdivision thereof, governmental agency or other entity.

"Plan" means an annual operating plan adopted or amended pursuant to Section 5.3.

"Plant Manager" means the production/plant manager for the Facility selected in accordance with Section 3.6, Section 8.5 or Section 8.6.

"Project Manager" means the individual appointed in accordance with Section 5.1.

"Prudent Operation and Maintenance Practices" means those practices, methods and acts generally employed in the power generation industry with respect to facilities of similar type, fuel characteristics and geographical location as the Facility, that at the particular time in question, in the exercise of reasonable judgment in light of the facts known at the time the decision in question was being made, would have been expected to accomplish the desired result of such decision consistent with the goals established in a Budget and Plan, and the requirements of Applicable Law, System Operators, equipment manufacturer's recommendations, reliability, safety, environmental protection, economy and expedition. With respect to Operator, Prudent Operation and Maintenance Practices are not limited to the optimum practices, methods or acts to the exclusion of all others, but rather include a spectrum of possible practices, methods or acts commonly employed in the coal-fired power generation industry, including taking reasonable actions to provide a sufficient number of Persons who are available and adequately trained to provide Services at the Facility, and timely perform preventive, routine, and non-routine maintenance and repairs, as exemplified and generally described in Appendix A, subject, in all cases, to the Operator's duties and the limitations on Operator's authority, as set forth in this Agreement and the Ownership Agreement.

"Qualified Replacement Operator" shall mean a Person that:

(i) has operated for a period of at least three (3) years, and continues to operate, coal and/or natural gas power generation facilities with an aggregate electricity output of at least one thousand (1,000) megawatts and at least one of those facilities is a coal power generation facility with an aggregate electricity output of at least three hundred (300) megawatts (or has engaged a third party to operate the Facility who satisfies such operation standards); and

(ii) either has (a) a credit rating of "BBB-" or higher by S&P Global Ratings and "Baa3" or higher by Moody's Investor Service or (b) a tangible net worth of at least $500,000,000 (or has a direct or indirect parent who satisfies such financial standards).

"Services" has the meaning set forth in Section 3.1.

"Site" means the land on which the Facility is situated.

"Standards of Performance" means the standards for Operator's performance of the Services set forth in Section 3.3.

"System Operator" means any Person or regional transmission organization, such as PJM Interconnection, L.L.C., supervising the collective transmission or generation facilities of the power region in which the Facility is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

"Term" means the initial term together with any extensions.

"Termination Transition Period" has the meaning set forth in Section 8.5.1.

"WPCo" has the meaning set forth in the preamble to this Agreement.

"Year" means the calendar year. With respect to the Year in which the Effective Date occurs, a Year will be deemed to begin on the Effective Date and end on December 31st of such Year. If this Agreement terminates, the final Year will be deemed to end on the date that termination occurs.

ARTICLE III - RESPONSIBILITIES OF OPERATOR

3.1 Provision of Services. Operator shall operate and maintain the Facility and perform other duties as set forth in this Agreement and as directed by the Owners pursuant to the Ownership Agreement, including performing and, as applicable, contracting for the benefit of the Owners with suppliers and service providers to perform, the services set forth on Appendix A (collectively, the "Services") and agrees to be responsible for the day-to-day operation and maintenance of the Facility.

3.2 Procurement.

3.2.1 Operator shall sign contracts and purchase orders for goods and services to be delivered to the Facility in the name of Operator as agent for the Owners, and shall not contract in the name of the Non-Operator Owner without the Non-Operator Owner's prior written consent. Operator acknowledges that such contracts and purchase orders are for the benefit of the Owners and the Facility. Operator shall endeavor to negotiate with vendors from standard terms and conditions, including reasonable warranties for the benefit of the Owners.

3.2.2 The Non-Operator Owner shall use commercially reasonable efforts to obtain, promptly following the Effective Date, any and all consents of third parties required to assign, transfer or convey to Operator any contracts or purchase orders for goods and services

(including fuel supply and transportation) to be delivered to or used by the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date, which are reasonably required to be transferred to Operator for the performance of the Services. To the extent that, notwithstanding its commercially reasonable efforts, the Non-Operator Owner is unable to obtain any such required consent effective as of the Effective Date, and as a result thereof Operator shall be prevented by such third party from receiving the rights and benefits with respect to any such contract or purchase order intended to be transferred hereunder, or if any attempted assignment would adversely affect the rights of the Non-Operator Owner thereunder so that Operator would not in fact receive all such rights or the Non-Operator Owner would forfeit or otherwise lose the benefit of rights that the Non-Operator Owner is entitled to retain, the Non-Operator Owner and Operator shall cooperate to implement any lawful and commercially reasonable arrangement as the Non-Operator Owner and Operator shall agree, under which Operator would, to the extent practicable, obtain the claims, rights and benefits under such contract or purchase order and assume the burdens and obligations with respect thereto, including by the Non-Operator Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such contracts or purchase orders; provided, however, that the Non-Operator Owner and WPCo shall each bear its respective share of the costs and expenses under any such contract or purchase order in accordance with this Agreement and the Ownership Agreement. The Non-Operator Owner and Operator shall continue to cooperate to assign, transfer or convey to Operator any such contract or purchase order that remain held by the Non-Operator Owner and to otherwise arrange for Operator to directly contract with the applicable third party for any renewal contract or purchase upon the expiration or termination of any such contract or purchase order.

3.3 Standards for Performance of the Services. Operator shall perform the Services in accordance with (i) the Manuals, (ii) the applicable Budget and Plan, (iii) Applicable Laws, (iv) Prudent Operation and Maintenance Practices, (v) insurer requirements delivered to Operator by the Owners in writing, (vi) the requirements in the Facility Agreements (vii) this Agreement; and (viii) as directed by the Owners pursuant to the Ownership Agreement. Subject to the other provisions of this Agreement, Operator shall perform the Services and other obligations under this Agreement in a manner consistent with the Operating Committee's directions. The Parties acknowledge and agree that, subject to Operator's compliance with the Standards of Performance, Operator shall have no liability for acting or refraining to act in accordance with the directions of the Operating Committee, except to the extent caused by Operator's gross negligence, willful misconduct, fraud, willful violation of any Applicable Law, willful breach of this Agreement or the Ownership Agreement or other willful misconduct.

3.4 Dispatch. Operator shall use commercially reasonable efforts to comply with any applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement. Operator shall give the Operating Committee notice as soon as practicable of any inability of the Facility to make the requisite deliveries of energy, capacity or ancillary services and of Operator's plan to restore operation of the Facility. In the case of any interruption, curtailment or reduction in (i) supplies of fuel or (ii) acceptance of energy, capacity or ancillary services by the System Operator or in the case of any other dispatch constraint

imposed on the Facility, Operator shall notify the Non-Operator Owner as soon as practicable. Upon removal of the constraint, Operator shall use its commercially reasonable efforts to restore the availability of the Facility for dispatch consistent with applicable dispatch instructions of the System Operator and, to the extent applicable, the directions of the Operating Committee or other Person identified by an Owner in writing to Operator as being authorized to provide dispatch instructions made in accordance with the Ownership Agreement.

3.5 Licenses and Permits.

3.5.1 General. Operator shall review all Applicable Laws containing or establishing compliance requirements in connection with the operation and maintenance and Decommissioning of the Facility and shall use commercially reasonable efforts to obtain and maintain, for the benefit of both Owners, all Permits required by Applicable Law for the ownership, operation, maintenance and Decommissioning of the Facility and for Operator's performance of the Services, and shall (i) from time to time, notify the Operating Committee if Operator believes that a Permit is required by Applicable Law to be obtained by an Owner in its name in order to allow Operator to perform the Services and assist each Owner, at each Owner's written request and such Owner's sole cost and expense, in securing and complying with, as appropriate, all necessary Permits (and renewals of the same) which are required to be in an Owner's name, including those relating to air emissions, boiler operation, water usage, septic system operation, wastewater discharge, chemical and other waste (including Hazardous Materials) storage and disposal, emissions testing and safety, and (ii) initiate and maintain precautions and procedures reasonably necessary to comply with Applicable Laws. Any Permit held solely in the name of Operator shall, to the extent necessary for the other Owner's compliance with Applicable Law in its role as an Owner, be held by Operator for the benefit of both Owners. Any Permit held solely in the name of the Non-Operator Owner shall, to the extent necessary and consistent with Applicable Laws, be made available for the use of the Operator for the benefit of the Owners and, if reasonably necessary to facilitate Operator's operation and maintenance or Decommissioning of the Facility, the Non-Operator Owner shall cooperate with Operator to effect an assignment or other transfer of such Permit to Operator or otherwise submit such Permit modifications or updating information as necessary to reflect the role of Operator with respect to such Permit.

3.5.2 NERC Compliance. Operator (or an Affiliate thereof) shall register with NERC as the "Generator Owner" and "Generator Operator" for the Facility in accordance with 18 C.F.R. § 39.2(c) effective from and after [the Effective Date][1]. On and after [the Effective Date], Operator shall, or shall cause its applicable Affiliate to, (i) maintain compliance with all NERC reliability standards applicable to the Facility and all NERC rules applicable to Operator as Generator Owner and Generator Operator for the Facility in accordance with 18 C.F.R. § 39.2(b), including any actions related to mitigation and compliance enhancement required or implemented thereunder; (ii) provide notice to the Operating Committee promptly following the determination by Operator of any reportable physical or cyber security incident under the NERC reliability standards or other Applicable Law; (iii) maintain and provide documentation and maintenance records to the Operating Committee regarding any operation, testing, maintenance

[1] **Note**: Subject to modification if registration cannot be effective as of the Effective Date.

or faults of any generation protection relays, gen-tie relays or any other equipment necessary to fulfill Operator's or its applicable Affiliate's obligations as the Generator Owner or Generator Operator for the Facility; and (iv) provide to the Non-Operator Owner upon written request any other information, documentation and support reasonably necessary for Operator or its applicable Affiliate to demonstrate compliance with the NERC reliability standards. To the extent that any fine or sanction is imposed in respect of the performance of Operator's obligations under this Section 3.5.2 pursuant to Section 215(c) of the Federal Power Act, any cost related thereto shall be a included as an Operating Cost, to the extent permitted by Applicable Law.

3.6 Personnel Matters. Subject to Sections 8.5 and 8.6, and as otherwise set forth in this Section 3.6, Operator shall be responsible for determining the working hours, rates of compensation and all other matters relating to the employment of Operator's Facility Personnel, including the designation or appointment of the Plant Manager, in its reasonable judgment and in accordance with Non-Operator Owner's and its Affiliates' past practices in the ordinary course of its business during the time it served as operator of the Facility, and shall retain sole authority, control and responsibility with respect to its employment policies. Operator shall submit for the Operating Committee's approval the staffing requirements for the Facility on an annual basis. If Operator intends to select a new Plant Manager, or if the individual serving as Plant Manager ceases to be the Plant Manager, Operator shall provide prompt written notice to the Non-Operator Owner of the selection of a substitute Plant Manager. Facility Personnel shall be qualified and experienced in the duties to which they are assigned. Operator shall, upon the reasonable written request of the Non-Operator Owner, for cause (as documented in reasonable detail in any such written request), use commercially reasonable efforts to, as promptly as practicable under the circumstances and subject to any applicable collective bargaining agreements, remove from the Site and the Facility workforce, the services of any employee or other individual, subject to Operator's confirmation that such cause exists.

3.7 No Liens or Encumbrances. Operator shall use commercially reasonable efforts to keep and maintain the Facility free and clear of all liens and Encumbrances resulting from the failure by Operator to perform the Services or the personal debts and obligations of Operator unrelated to its ownership interest in the Facility.

3.8 Emergency Action. In the event of an emergency affecting the safety, health or protection of, or otherwise endangering, any Person, property or the environment located at or about the Facility (an "Emergency"), Operator shall take prompt action in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate any imminent damage, injury or loss threatened by such Emergency, and shall notify the Non-Operator Owner of such Emergency and Operator's response as soon as practical under the circumstances and in no event later than forty-eight (48) business hours after Operator becomes aware of such event. To the extent Operator procures goods and services as necessary to respond to an Emergency, reasonable and documented out of pocket costs in respect thereof shall be treated as Operating Costs.

ARTICLE IV - OBLIGATIONS, RIGHTS AND REPRESENTATIVES OF EACH OWNER

4.1 General. Each Owner expressly reserves the exclusive authority to make, and shall make, such business and strategic decisions as it deems appropriate from time to time in reference to the operation and maintenance of the Facility in accordance with the Ownership Agreement. Upon request from Operator, the Non-Operator Owner shall promptly furnish or cause to be furnished to Operator, at the Non-Operator Owner's expense, the information, access, materials, instructions and other items described in this Article IV that are in the possession or control of the Non-Operator Owner and which are reasonably necessary for performance of the Services by Operator and not otherwise available to Operator. All such items will be made available at such times and in such manner as may be reasonably required for the expeditious and orderly performance of the Services by Operator.

4.2 Information. Subject to the Standards of Performance, Operator shall be entitled to rely upon any information provided by the Non-Operator Owner or any other party to the Facility Agreements in the performance of the Services.

4.3 Access to Facility. Each Owner shall provide Operator and Operator's contractors, vendors, suppliers, employees and agents and Facility Agreement counterparties, to the extent applicable, reasonable access to and use of the Facility and the Site and to such Owner's records and data at the Facility and, in the case of the Non-Operator Owner, reasonably available to the Non-Operator Owner or in the Non-Operator Owner's possession and reasonably necessary for the performance of Services by Operator under this Agreement.

4.4 Instructions, Approvals, etc. Each Owner shall provide or cause to be provided (including through action of the Operating Committee) to Operator all instructions Operator is required to obtain in accordance with this Agreement. Without limiting the provisions of Section 3.2.2, each Owner shall reasonably cooperate to make available or cause to be available to Operator the benefits of all assets (including Permits and contracts relating to the Facility) held in the name of such Owner, as reasonably required for the operation of the Facility. Each Owner shall not direct Operator to take any action inconsistent with Applicable Law or otherwise adversely affecting the safety, health or protection of any person, or property or the environment located at or about the Facility.

ARTICLE V - REPRESENTATIVES, BUDGETS AND REPORTS

5.1 Representatives of Operator. On or as soon as practical after the Effective Date, Operator shall appoint a Project Manager who shall be authorized to represent Operator with each Owner and the Operating Committee concerning Operator's performance of the Services. The Project Manager may be the same individual as the Plant Manager. Operator shall be responsible for all communications, directions, requests and decisions made by its Project Manager at its direction. Operator shall notify the Non-Operator Owner in writing upon the appointment of its Project Manager, and of any successors. The Project Manager has no authority to modify, amend or terminate this Agreement or, absent written notice by Operator to

the contrary, to enter into any other agreement on behalf of Operator other than as provided herein.

5.2 Representatives of Owner; Operating Committee. The Operating Representative of each Owner (pursuant to and as defined in the Ownership Agreement) shall be authorized and empowered to act for and on behalf of such Owner on all matters requiring the consent, approval or other action of an Owner pursuant to this Agreement. Each Owner shall notify Operator and the other Operating Representative in writing upon the appointment of its Operating Representative, and of any successors. Any provision of this Agreement requiring the consent, approval, or similar act of the Operating Committee shall mean the consent, approval, or similar act of the Operating Committee acting in accordance with the terms of the Ownership Agreement.

5.3 Plans and Budgets.

5.3.1 Adoption.

5.3.1.1. Budgets. The initial Budget and Plan for the first Year following the Effective Date is attached as Appendix B hereto. No later than ninety (90) days prior to each operating Year, Operator shall deliver to the Operating Committee for the Operating Committee's review, revision if applicable and approval (i) a proposed annual operating budget, (ii) any proposed amendments to the annual capital budget, (iii) an annual operating plan and (iv) a six (6) Year future forecast of operating and capital expenses. Each such proposed budget, plan and forecast shall contain such detail and supporting documentation as reasonably necessary or reasonably requested for the Operating Committee's review, and Operator shall provide all such additional information and supporting documentation as may be reasonably requested by the Operating Committee and as required by the Ownership Agreement. The Operating Committee shall review and provide modifications to each such proposed budget, plan and forecast and Operator shall cooperate to revise each such proposed budget and plan to receive the Operating Committee's approval of same by December 1 of each Year. Each Budget and Plan as approved by the Operating Committee or otherwise deemed implemented pursuant to the Ownership Agreement shall remain in effect in accordance with the Ownership Agreement. Operator and the Non-Operator Owner by mutual agreement may modify the process and procedures set forth in this Section 5.3.1.

5.3.1.2. Amendments. If either the Non-Operator Owner or Operator becomes aware of facts or circumstances that it believes necessitate a change to a Budget or Plan, that Party shall promptly notify the other Party in writing, specifying the impact upon the Budget and the reasons for the change. The Project Manager shall then discuss appropriate amendments to the Budget with the Operating Committee.

5.3.1.3. Failure to Agree. Operator acknowledges that the Owners retain ultimate authority with respect to expenses incurred for the Facility. Accordingly, Operator shall accept each Budget as determined in accordance with the Ownership Agreement. To the extent that the Operating Committee limits funds for Operating Costs, Operator shall be

relieved from performing only those specific Services that would result in the incurrence of such non-reimbursable Operating Costs.

5.3.2 Limitations on Variation from Budget. Except as otherwise permitted in response to an Emergency in accordance with Section 3.8, Operator shall obtain the Operating Committee's written approval (i) for any expenditures resulting in cumulative budget overruns exceeding ten percent (10%) in the aggregate in any Year with respect to either the operating Budget or capital expense Budget, or (ii) for any unbudgeted expenditure or capital project having a projected cost of more than $100,000.

5.4 Availability of Operating Data and Records. Operator shall deliver Facility data recorded, prepared or maintained by Operator to the Operating Committee: (i) as necessary or reasonably requested by an Owner to assist each Owner in complying with requirements of Governmental Authorities, Permits and Facility Agreements; or (ii) upon request by the Non-Operator Owner, in each case as soon as reasonably practicable but in any event within ten (10) Business Days following such request.

5.5 Litigation and Permit Lapses. Promptly upon obtaining actual knowledge thereof, either Party shall submit prompt written notice to the other Party of the following, to the extent relating to the Facility or the Services or agreements relating to either the Facility or the Services: (i) any litigation, Claims or actions filed, including by, against or with any Governmental Authority; (ii) any actual refusal to grant, renew or extend, or any action filed with respect to the granting, renewal or extension of, any Permit; (iii) all penalties or notices of violation issued or asserted by any Governmental Authority; (iv) any dispute with any Governmental Authority that may affect the Facility in any material respect; and (v) with respect to the matters identified in items (i), (ii), (iii) or (iv), any material threats of such matters. Upon Non-Operator Owner's request, Operator shall provide any documentation related to any of the foregoing.

5.6 Other Information. Operator shall promptly submit to the Non-Operator Owner any material information concerning new or significant aspects of the Facility operations and, upon the Non-Operator Owner's request, shall promptly submit any other information concerning the Facility or the Services.

5.7 Records Maintenance and Retention. Operator shall maintain all records, reports, documents and data, including all data retrievable from an electronic data storage source, for the Facility in accordance with Applicable Law and shall retain and preserve all such records, reports, documents and data created in connection with the operation and maintenance of the Facility, in accordance with Applicable Law, provided that Operator shall notify the Non-Operator Owner in writing at least sixty (60) days prior to the destruction or other disposition of any record, report, document or data. If the Non-Operator Owner gives written notice to Operator prior to the expiration of the 60-day period, Operator shall maintain custody of such material until the earlier of (i) such time as the Non-Operator Owner notifies Operator to dispose of such material and (ii) seven (7) Years. If the Non-Operator Owner does not provide written notice to Operator prior to the expiration of the 60- day period, Operator may destroy or

dispose of such material and shall provide the Non-Operator Owner with a certificate confirming such destruction or disposition.

ARTICLE VI - LIMITATIONS ON AUTHORITY

6.1 Limitations on Authority. Operator has no authority to make policies or decisions with respect to the overall operation or maintenance of the Facility as a commercial enterprise pursuant to the terms of this Agreement. The Owners, acting through the Operating Committee and pursuant to the terms of the Ownership Agreement, shall determine all such matters. Notwithstanding any provision in this Agreement to the contrary, unless previously approved in a Budget and Plan or otherwise approved in writing by the Operating Committee, in connection with Operator's provision of Services hereunder, Operator is prohibited from doing any of the following (and shall not permit any of its agents, Affiliates, or representatives to do any of the following):

6.1.1 Dispose of Assets. Selling, leasing, pledging, mortgaging, granting a security interest in, encumbering, conveying, or making any license, exchange or other transfer or disposition of all or any portion of the Facility, the Site or any other property or assets of the Owners, including any property or assets purchased by Operator, the cost of which is an Operating Cost;

6.1.2 Make Expenditures. Making any expenditure or acquiring, on an Operating Cost basis, any goods or services from third parties, except in conformity with a Budget or as otherwise permitted under Section 5.3.2 or as authorized by the Operating Committee; provided, however, that in the event of an Emergency, Operator, without approval from the Owners, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.3 Take Other Actions. Taking or agreeing to take any other action or actions the decision for which is reserved exclusively for the Operating Committee pursuant to the Ownership Agreement; provided, however, that in the event of an Emergency, Operator, without approval from the Operating Committee, is authorized to take all reasonable actions in accordance with Prudent Operation and Maintenance Practices to prevent or mitigate such threatened damage, injury or loss in accordance with Section 3.8;

6.1.4 Act Regarding Lawsuits and Settlements. Settling, compromising, assigning, pledging, transferring, releasing or consenting to the compromise, assignment, pledge, transfer or release of, any material Claim, suit, debt, demand or judgment against or due by any Owner or Operator, the cost of which would be an Operating Cost hereunder, or submitting any such Claim, dispute or controversy to arbitration or judicial process, or stipulating in respect thereof to a judgment, or consent to the same; provided, however, that such prohibition shall not apply to, nor shall it be construed as a release or waiver of, any of Operator's rights or obligations pursuant to this Agreement or any other agreement between the Parties; or

6.1.5 Pursue Transactions. Engaging in any other transaction on behalf of the any Owner that is not permitted under this Agreement.

ARTICLE VII - COMPENSATION AND PAYMENT

7.1 General. The Non-Operator Owner shall pay Operator, and WPCo shall bear directly in its capacity as an Owner, its allocated share in accordance with the Ownership Agreement of all Operating Costs, all as further described below. All Operating Costs shall initially be paid for by Operator (except as otherwise provided in this Agreement) and subsequently invoiced monthly in arrears as more fully set forth in this Article VII.

7.2 Costs.

7.2.1 Operating Costs. Subject to the Ownership Agreement and the limitations on expenditures set forth elsewhere in this Agreement (including Section 5.3), the Non-Operator Owner shall reimburse Operator for its allocated share in accordance with the Ownership Agreement of the fully distributed costs incurred (whether paid or accrued) in the provision of Services (which shall be allocated consistent with Non-Operator Owner's and its Affiliates past practices in the ordinary course of business during the time it served as operator of the Facility and in any event in accordance with the Cost Allocation Manual with respect to costs incurred by Affiliates of Operator), including for labor, goods, services, capital expenditures, overhead, cost of capital, Taxes (other than income or franchise taxes), Permits and bonds (the "Operating Costs"), in each case invoiced in a manner consistent with the example invoice worksheets attached hereto as Appendix C, which shall include such costs with respect to: (i) equipment, material, supplies and other consumables, spare parts, replacement components, tools, office equipment, computer equipment, software, information technology and supplies acquired for use at the Facility; (ii) fuel supply and transportation; (iii) costs associated with special training of Facility Personnel and associated travel and living expenses; (iv) amounts paid under subcontracts, purchase orders and agreements; (v) fees for Permits required to be held by Operator; (vi) community relations and labor relations activities; and (vii) Operator's cost of Facility Personnel (and the allocable portion of other employees of Operator and its Affiliates attributable to performing the Services) wages, salaries, overtime, employee bonus, customary or required severance payments, unemployment insurance, long-term disability insurance, short term disability payments, sick leave, payroll taxes imposed on wages and benefits, worker's compensation costs and holidays, vacations, group medical, dental and life insurance, defined contribution retirement plans and other employee benefits; (viii) costs of third-party advisors, consultants, attorneys, accountants and contractors retained and managed by Operator in support of, and allocable to, the Services; (ix) a reasonably allocable portion of the cost of the insurance maintained by Operator in accordance with Section 9.1 on account of its Operator role; (x) reasonable costs incurred in response to an Emergency; and (xi) any other activity that Operator is required or expressly requested in writing by the Owners to perform under this Agreement for the benefit of the Facility or that is approved in a Budget or by the Operating Committee pursuant to the terms of this Agreement.

7.2.2 Invoicing. On or before the twenty-fifth (25^{th}) day of each calendar month during the Term, Operator shall submit invoices to the Non-Operator Owner in form and substance reasonably similar to that attached hereto as Appendix C for Operating Costs incurred during the preceding calendar month (as well as any such costs for any prior period that were not previously invoiced). If any contract or purchase order intended to be assigned, transferred or conveyed to Operator remains held by the Non-Operator Owner as described in Section 3.2.2 and

the Non-Operator Owner directly pays costs thereunder for the benefit of the Owners, the invoice submitted by Operator shall net WPCo's allocated share in accordance with the Ownership Agreement of any such costs paid by the Non-Operator Owner for the benefit of the Owners. The Non-Operator Owner shall make payment to Operator of its allocated share in accordance with the Ownership Agreement of the invoiced amount no later than the Due Date. For the avoidance of doubt, WPCo, in its capacity as an Owner, shall bear directly its allocated share in accordance with the Ownership Agreement of such Operating Costs.

7.3 Cost Audit. The Non-Operator Owner shall be entitled to conduct an audit, or to delegate a representative to audit, at its sole cost and expense and review of Operator's books and records with respect to all Operating Costs and performance of the Services together with any supporting documentation for a period of one (1) Year from and after the date of the audited payment. If, pursuant to such audit and review, it is agreed that any amount previously paid by Operator or by an Owner was not properly incurred as an Operating Cost or an adjustment of any such cost is required, Operator shall credit to the Non-Operator Owner or Operator, as applicable, its allocated share in accordance with the Ownership Agreement of such amount in the next succeeding invoice or promptly paid in cash if there shall not be further invoices issued.

7.4 Late Payment Rate. To the extent a Party fails to pay any amount required to be paid under this Agreement by the Due Date, the unpaid amount shall accrue interest each day at the Late Payment Rate from the Due Date until such amount (plus accrued interest) is paid by the applicable Party in full. In the event any paid amounts are disputed by a Party in good faith and such dispute is resolved (including if applicable in accordance with the procedures set forth in Section 14.7) in the favor of such Party, then the applicable other Party shall repay to such Party such overpaid amount plus interest thereon accrued each day at the Late Payment Rate from payment by such Party until such amount (plus accrued interest) is repaid in full to such Party by the applicable other Party.

ARTICLE VIII - TERM

8.1 Term. The Term of this Agreement shall commence on the Effective Date and, subject to approval or acceptance of termination by FERC or other Governmental Authority to the extent required, shall end on the date of termination of the Ownership Agreement (the "Term"). Notwithstanding the foregoing, this Agreement and the Term is subject to earlier termination pursuant to Sections 8.2 and 8.3.

8.2 Termination by the Non-Operator Owner for Cause. The Non-Operator Owner shall be permitted to terminate this Agreement upon written notice to Operator if any of the following events occur: (i) the Bankruptcy of Operator; (ii) a payment default by Operator (other than a disputed payment) that Operator fails to cure within ten (10) Business Days after Operator has received written notice of such default; (iii) Operator incurs liability to the Owners equal to the liability limit set forth in Section 11.2 for any two Years during the Term (provided that written notice of termination must be delivered to Operator no later than ninety (90) days after the end of the second of such two Years), or (iv) a material default by Operator in the performance of its obligations under this Agreement, including any default that has, or is reasonably expected to have, a material adverse effect on the operations, maintenance or performance of the Facility and Operator has failed to cure such default within sixty (60) days of

written notice of such failure; provided, that if it is not possible to cure such breach within sixty (60) days of receipt of such notice of failure, Operator (A) fails to commence to cure the breach within such sixty (60) day period, (B) thereafter fails to continue diligent efforts to complete the cure as soon as reasonably possible, or (C) fails to complete the cure within ninety (90) days of receipt of such notice of failure. In addition, Non-Operator Owner shall have the option to terminate this Agreement for convenience upon ninety (90) days written notice to Operator delivered no later than ninety (90) days after the occurrence of any transfer, assignment, sale or other disposition (including any transfers, assignments, sales or other dispositions in connection with a foreclosure or an exercise of remedies by the Financing Parties) that results in WPCo's Ownership Interest no longer being owned directly or indirectly by AEP or an Affiliate thereof, except in the case of an transfer, assignment, sale or other disposition to a successor Operator that is a Qualified Replacement Operator in compliance with the terms of this Agreement and the Ownership Agreement.

8.3 Termination by Operator. Operator shall be permitted to terminate this Agreement upon written notice to the Non-Operator Owner if any of the following events occur: (i) a payment default by the Non-Operator Owner (other than a disputed payment) that is not cured within thirty (30) days after the Due Date for any invoice; (ii) the Bankruptcy of the Non-Operator Owner; or (ii) a default by the Non-Operator Owner of any other obligation under this Agreement that has a material adverse effect on Operator's ability to perform the Services and that the Non-Operator Owner has failed to cure or make substantial progress in the reasonable opinion of Operator toward curing within ninety (90) days of written notice by Operator to the Non-Operator Owner of such failure. As soon as practicable after all cost information is gathered following termination, Operator shall invoice the Non-Operator Owner for its allocated share in accordance with the Ownership Agreement for Services rendered by Operator through the termination date, including all Operating Costs incurred through the date of termination but not paid.

8.4 Transfer of Facility Custody. Upon expiration or termination of this Agreement, Operator shall leave at the Facility all documents and records, tools, supplies, spare parts, safety equipment, Manuals, and any other items furnished on an Operating Cost basis, all of which shall remain the property of the Owners without additional charge. Operator shall execute all documents and take all other reasonable steps as may be reasonably requested by the Non-Operator Owner to assign to and vest in a replacement provider of Services all of its pro-rata rights, benefits, interests and title in connection with any subcontracts Operator executed in its own name for the benefit of the Facility and the Owners.

8.5 Services Upon Termination.

8.5.1 Upon notice of termination of this Agreement by either Operator or the Non-Operator Owner, unless the Non-Operator Owner is then in payment default such that Operator would have the right to terminate this Agreement pursuant to Section 8.3(i), the Non-Operator Owner shall have the right to specify a period of transition of no longer than nine (9) months (the "Termination Transition Period") during which Operator shall: (i) continue to provide Services at the Facility in accordance with this Agreement; (ii) cooperate with the Non-Operator Owner in planning and implementing a transition to any replacement provider of Services; (iii) use its commercially reasonable efforts to minimize disruption of Facility

operations in connection with such transition activities; (iv) make all requisite regulatory filings as promptly upon commencement of the Termination Transition Period, subject to cooperation of the Parties; (v) transfer all Permits, licenses, registrations, approvals and contracts to the Non-Operator Owner or such replacement operator, in each case, as requested by the Non-Operator Owner; and (vi) take all actions incidental thereto and as reasonably requested by the Non-Operator Owner. The provisions of Article VII shall continue to apply during the Termination Transition Period. To facilitate employee transfer, Operator shall permit the replacement service provider and the Non-Operator Owner to interview such Facility Personnel for potential positions with such replacement operator in a manner and at times that do not interfere with Operator's responsibility to perform the Services. If Operator or one of its Affiliates continues to own a portion of the Facility, Operator shall, or shall cause its Affiliates to, reasonably cooperate to allow a successor operator to operate the Facility after the termination of this Agreement, including by granting access rights and executing other instruments as may be reasonably requested by the Non-Operator Owner and any replacement operator.

8.5.2 Any modifications to the ownership and operation of the Facility, including any termination of this Agreement, shall be subject to any required regulatory or administrative filings and approvals.

8.6 Plant Manager Replacement. Upon (i) commencement of the Termination Transition Period or (ii) the occurrence of any of the conditions described in Section 8.2, the Non-Operator Owner may designate a qualified individual with significant experience as a project manager or similar senior operating role in respect of the management and operation of large coal-fired generation facilities with similar operating characteristics as the Facility to replace the existing Plant Manager and who shall upon such appointment be the Plant Manager.

ARTICLE IX - INSURANCE

9.1 Operator Insurance Requirements.

9.1.1 Commencing with the performance of the Services hereunder, and continuing until the termination of this Agreement, Operator (and any tier subcontractors) shall maintain or cause to be maintained occurrence form (if written on a claims -made policy form, be maintained with a retroactive date that is prior to this Agreement Effective Date for a period of at least three (3) Years following the last Year in which such policy provides coverage under the terms of this Agreement) insurance policies as follows: (i) Workers' Compensation in accordance with the statutory requirements of the state in which the Services are performed and Employer's Liability Insurance of not less than one million Dollars ($1,000,000) each accident/employee/disease; (ii) Commercial General Liability Insurance having a limit of at least one million Dollars ($1,000,000) per occurrence/two million Dollars ($2,000,000) in the aggregate for contractual liability, personal injury, bodily injury to or death of Persons, and/or loss of use or damage to property, including but not limited to products and completed operations liability (which shall continue for at least three (3) Years after completion), premises and operations liability and explosion, collapse, and underground hazard coverage; (iii) Commercial/Business Automobile Liability Insurance (including owned (if any), non-owned or hired autos) having a limit of at least one million Dollars ($1,000,000) each accident for bodily injury, death, property damage and contractual liability and no fellow employee exclusion; (iv)

Umbrella/Excess Liability insurance with limits of at least twenty-four million Dollars ($24,000,000) per occurrence and follow form of the underlying Employer's Liability, Commercial General Liability and Auto Liability insurance, and provide at least the same scope of coverages thereunder; (v) coverage for sudden/accidental occurrences for bodily injury, property damage, environmental damage, cleanup costs and defense with a minimum of one million Dollars ($1,000,000) per occurrence; and (vi) "all-risk" or its equivalent property insurance providing coverage risks of physical damage to the Facility or Facility Equipment in an amount in accordance with Good Utility Practice.

9.1.2 Unless otherwise determined by the Operating Committee that the Operator should purchase capacity insurance on behalf of both Owners, Operator (including in its capacity as an Owner) and Non-Operator Owner may each procure individually, in proportion to their Ownership Interests, PJM Interconnection, L.L.C. capacity performance insurance on terms and conditions, and placed with insurance companies, reasonably acceptable to the Operator or such Owner, as applicable. Operator shall make such certifications relating to the operation, maintenance and condition of the Facility from time to time during the Term as may be reasonably necessary in connection with the procurement or maintenance of such insurance coverage by Operator and the Non-Operator Owner and any other insurance policies of either Owner that may relate to coverage pertaining to or affecting an Owner's Ownership Interest.

9.2 Form and Content. All insurance policies provided and maintained by Operator and each subcontractor shall: (i) except with respect to insurance policies issued by any "captive" insurer of Operator or its Affiliates, be underwritten by insurers that are rated A.M. Best "A-VII" or higher; (ii) specifically include the Non-Operator Owner and its directors, officers, employees, affiliates, subcontractors, and joint owners of any facilities as additional insureds for their liability arising out of the acts or omissions of Operator, including for completed operations, with respect to Operator's acts, omissions, services, products or operations, whether in whole or in part, excluding, however, for Workers' Compensation/Employer's Liability insurance, Pollution Legal Liability insurance, and "all-risk" property insurance; (iii) be endorsed to provide, where permitted by law, waiver of any rights of subrogation against an Owner and its directors, officers, employees, affiliates and subcontractors, and joint owners of any facilities; (iv) provide that such policies and additional insured provisions are primary with respect to the acts, omissions, services, products or operations of Operator or its subcontractors, to the extent of Operator's negligence, (v) contain standard separation of insured and severability of interest provisions except with respect to the limits of the insurer's liability; and (vii) not have any cross-liability exclusion, or any similar exclusion that excludes coverage for Claims brought by additional insureds under the policy against another insured under the policy; Any deductibles or retentions shall be the sole responsibility of Operator and its subcontractors. Evidence of such coverage shall be provided in the form of Operator's certificate of insurance furnished to the Non-Operator Owner prior to the Effective Date, upon any policy replacement or renewal and upon the Non-Operator Owner's request. Operator shall provide at least thirty (30) days' prior written notice to the Non-Operator Owner prior to cancellation of any policy (or ten (10) days' notice in the case of non-payment of premium).

ARTICLE X - INDEMNIFICATION

10.1 Operator Indemnification. Subject to the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner and its Affiliates, and their respective officers, directors, employees, managers, members, agents and representatives (collectively, the "Non-Operator Owner Indemnitees"), from and against, and no Non-Operator Owner Indemnitee shall be responsible for any and all Liabilities incurred, assessed, sustained or suffered by any Non-Operator Owner Indemnitee to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement. Any Liabilities paid by Operator pursuant to its indemnity obligation under this Section 10.1 shall in no event be considered Operating Costs hereunder.

10.2 Owner Indemnification. Subject to the limitations of liability in Section 11.1, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless Operator and its Affiliates, and their respective officers, directors, employees, agents and representatives (collectively, the "Operator Indemnitees"), from and against, and no Operator Indemnitee shall have responsibility for, any and all Liabilities to a third party incurred, assessed, sustained or suffered by or against any Operator Indemnitee arising from or relating to Operator's performance of the Services under this Agreement, except to the extent caused by Operator's gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law, or willful breach of this Agreement; provided, however, that the Liabilities for which Non-Operator Owner is obligated to indemnify any Operator Indemnitees under this Section 10.2 shall not in any event include any Liabilities for which WPCo is obligated to indemnify Non-Operator Owner (and/or its Affiliates) in any agreement among the Owners (and/or their Affiliates) and AEP (and/or its Affiliates), including pertaining to the allocation of emission limitations associated with the Facility. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear directly its proportionate share of Liabilities under this Section 10.2 in respect of its Ownership Interest.

10.3 Environmental Indemnification.

10.3.1 Owner Indemnity for Environmental Liabilities. Subject to the limitations of liability in Section 11.1, and without in any way limiting the provisions of Section 10.3.2, each Owner shall, severally with respect to its proportionate share in respect of its Ownership Interest and not jointly, indemnify and hold harmless the Operator Indemnitees, from and against, and no Operator Indemnitees shall have responsibility for, any and all Liabilities, including all civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Operator Indemnitees, as applicable, as a result of or in connection with any matters governed by Environmental Laws directly or indirectly related to or arising out of (i) the design, permitting or construction of the Facility or the condition of the Site, and any adjacent parcels; (ii) the operation, maintenance, ownership, control or use of the Facility or otherwise related to the Facility; and (iii) the offsite transportation, treatment or disposal of all wastes generated at the Facility and any properties included within or adjacent to the Site, whether occurring before or after the Effective Date (collectively, "Environmental Liabilities"), including any Environmental Liabilities arising out of the actual or alleged existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous

Materials, but excluding Operator Environmental Liabilities; provided, however, that the Environmental Liabilities for which any Owner is obligated to indemnify any Operator Indemnitees under this Section 10.3.1 shall not in any event include any Operator Environmental Liabilities for which Operator is liable under Section 10.3.2. For the avoidance of doubt, WPCo, in its capacity as an Owner of the Facility, shall bear its proportionate share of Environmental Liabilities under this Section 10.3.2 in respect of its Ownership Interest.

10.3.2 Operator Indemnity for Environmental Liabilities. Subject to the provisions of Section 10.1 and the limitations of liability in Section 11.1, Operator shall indemnify and hold harmless the Non-Operator Owner Indemnitees from and against, and no Non-Operator Owner Indemnitee shall be responsible hereunder for any Liabilities, including any civil and criminal fines or penalties and other costs and expenses incurred, assessed, sustained or suffered by or against any Person as a result of or in connection with any breach or violation of or any other matters governed by Environmental Laws to the extent caused by the gross negligence, willful misconduct, actual fraud, willful violation of any Applicable Law or willful breach of this Agreement by Operator or arising out of the existence, generation, use, emission, collection, treatment, storage, transportation, disposal, recovery, removal, release, discharge or dispersal of Hazardous Materials brought on Site by Operator or its Affiliates or agents on or after the Effective Date (the "Operator Environmental Liabilities"). Operator understands and agrees that any Operator Environmental Liabilities paid by Operator pursuant to this Section 10.3.2 shall not be Operating Costs hereunder.

10.3.3 Governmental Actions. During the Term, Operator shall use commercially reasonable efforts to cooperate with and assist the Owners with their acquisition of data and information, and preparation and filing with appropriate Governmental Authorities of any notices, plans, submissions, or other materials and information necessary for compliance by the Owners with applicable Environmental Laws and the requirements of any Permits related to the Facility. All such environmental reports shall be submitted by, and in the names of, both Owners. All reasonable and documented costs associated therewith, including the reasonable costs of any outside consultants, legal services, Governmental Authority charges, sampling and remedial work shall be paid by the Owners as an Operating Cost, and the Non-Operator Owner shall reimburse WPCo to the extent of the Non-Operator Owner's pro rata share, unless such costs are incurred arising out of or associated with Operator Environmental Liabilities that are subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof. Nothing contained herein shall be construed as requiring Operator to take any corrective action with respect to Environmental Liabilities unless (x) affirmatively and expressly directed in writing to so do by the Operating Committee and appropriate funding is made available, or (y) affirmatively and expressly directed to do so by a Governmental Authority, in order to comply with any Environmental Law, in which case the cost of any corrective actions so undertaken shall be deemed an Environmental Liability subject to Section 10.3.1 hereof (if not otherwise reimbursed as an Operating Cost hereunder), unless such Environmental Liability arises out of or is associated with Operator Environmental Liabilities subject to Operator's indemnity obligation pursuant to Section 10.3.2 hereof.

ARTICLE XI - LIABILITIES OF THE PARTIES

11.1 Limitations of Liability. Notwithstanding any provision in this Agreement that may be susceptible to contrary interpretation, neither the Parties nor any Non-Operator Owner Indemnitees or Operator Indemnitees shall be liable for consequential or indirect loss or damage, including loss of profit, cost of capital, loss of goodwill, increased Operating Costs, or any special or incidental damages; provided, however, that notwithstanding the foregoing, in no event will the foregoing limitations of liability be applied to limit the extent of the liability of either Party to the other for or with respect to any Claims of third parties or to the extent arising from gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement. The Parties further agree that the waivers and disclaimers of liability, indemnities, releases from liability and limitations of liability expressed in this Agreement shall survive termination or expiration of this Agreement, and shall apply in all circumstances, whether in contract, equity, tort or otherwise, regardless of the fault, negligence (in whole or in part), strict liability, breach of contract or breach of warranty of the Party indemnified, released or whose liabilities are limited, and shall extend to the Non-Operator Owner Indemnitees and Operator Indemnitees.

11.2 Operator's Total Aggregate Liability. Except to the extent that a Non-Operator Owner Indemnitee suffers Liabilities that are caused by, result from or arise out of Operator's or its Affiliates' breach of Article XIII or its gross negligence, actual fraud, willful violation of Applicable Law or willful breach of this Agreement, or willful misconduct (including in connection with any Services), the total liability of Operator to the Non-Operating Owner for all Liabilities arising out of, connected with or resulting from any events occurring or claims made in connection with this Agreement, whether based in contract, warranty, tort, strict liability or otherwise, shall not exceed, in the aggregate, the sum of (i) an amount equal to twenty-five percent (25%) of the Operating Costs, but excluding Operating Costs relating to any services, goods, inventory and equipment provided hereunder by third parties other than Operator's Affiliates, incurred pursuant to this Agreement in the prior twelve (12) month period, *plus* (ii) the Non-Operating Owner's fifty percent (50%) share of any insurance proceeds actually received by the Operator or paid on the Operator's behalf with respect to the relevant loss or damages under the insurance policies procured by the Operator pursuant to Section 9.1.

11.3 No Warranties or Guarantees.

11.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OR GUARANTEES TO THE OTHER, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT, AND BOTH PARTIES DISCLAIM AND WAIVE ANY IMPLIED WARRANTIES OR WARRANTIES IMPOSED BY LAW, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT.

11.3.2 OPERATOR IS ACTING AS AGENT OR OTHERWISE AS A RESELLER WITH RESPECT TO ALL SERVICES, GOODS, INVENTORY AND EQUIPMENT PROVIDED HEREUNDER BY THIRD PARTIES OTHER THAN OPERATOR'S AFFILIATES, AND, AS SUCH, DOES NOT PROVIDE ANY WARRANTY

FOR SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT PROVIDED HEREUNDER. ALL SUCH THIRD PARTY SERVICES, GOODS, INVENTORY AND EQUIPMENT ARE PROVIDED AS IS, WHERE IS, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR ANY IMPLIED WARRANTY OF NON-INFRINGEMENT UNLESS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES. THE SOLE REMEDY IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF SUCH THIRD PARTY SERVICES, GOODS, INVENTORY OR EQUIPMENT (WHETHER A CLAIM FOR SUCH DEFECT ARISES UNDER CONTRACT, TORT, STRICT LIABILITY, STATUTE, OR ANY OTHER LEGAL OR EQUITABLE THEORY OR PRINCIPLE INCLUDING NEGLIGENCE) SHALL BE TO SEEK RECOURSE EXCLUSIVELY FROM THE COUNTERPARTIES TO THE THIRD PARTY CONTRACTS, UNLESS THE DEFECT OR FAILURE WAS CAUSED BY THE GROSS NEGLIGENCE, WILLFUL MISCONDUCT, ACTUAL FRAUD, WILLFUL VIOLATION OF ANY APPLICABLE LAW OR WILLFUL BREACH OF THIS AGREEMENT BY OPERATOR OR ITS AFFILIATES.

ARTICLE XII - CONFIDENTIALITY

12.1 General. During the Term, and for the later of three (3) Years after the termination of this Agreement or five (5) Years after receipt of the applicable Confidential Information, each Party shall hold in confidence any Confidential Information supplied by or on behalf of the other Party. Each receiving Party further agrees to require its contractors, vendors, suppliers and employees, agents or prospective purchasers to preserve the confidentiality of Confidential Information. The receiving Party may make necessary disclosures to third parties directly engaged in the operation, ownership or financing of the Facility if such third parties are under an obligation to receive and hold such Confidential Information in confidence.

12.2 Exceptions. The provisions of this Article XII do not apply to information within one or more of the following categories:

12.2.1 Public Domain. Information that was in the public domain prior to the receiving Party's receipt or that subsequently becomes part of the public domain by publication or otherwise, except by the receiving Party's or its Affiliate's wrongful act.

12.2.2 Prior Receipt. Information that the receiving Party can demonstrate was in its possession prior to receipt thereof from the disclosing Party so long as such possession did not result from a violation of a confidentiality obligation.

12.2.3 Third Party Delivery. Information received from a third party having no obligation of secrecy with respect thereto.

12.2.4 Permitted Disclosures. Information disclosed by an Owner to Lenders or prospective Lenders, equity investors or prospective equity investors, prospective purchasers,

consultants, attorneys, accountants and other designated agents in each case on a confidential, need-to-know-basis.

12.2.5 Regulatory Filings. Information required to be disclosed by an Owner in connection with any required regulatory or administrative filings.

12.3 Required Disclosure. Notwithstanding the forgoing, any receiving Party required by law, rule, regulation, subpoena or order, or in the course of regulatory, administrative or judicial proceedings, to disclose Confidential Information that is otherwise required to be maintained in confidence pursuant to this Article XII, may make disclosure notwithstanding the provisions of this Article XII. Prior to doing so, the receiving Party, promptly upon learning of the requirement, shall notify the disclosing Party of the requirement and cooperate to the maximum extent practicable to minimize the disclosure of Confidential Information. Any receiving Party disclosing Confidential Information pursuant to this Section 12.3 shall use commercially reasonable efforts, at the disclosing Party's cost, to obtain proprietary or confidential treatment of Confidential Information by the third party to whom the information will be disclosed, and to the extent such remedies are available, shall use commercially reasonable efforts to seek protective orders limiting the dissemination and use of Confidential Information. Nothing in this Agreement is intended to prevent the disclosing Party from appearing in any proceedings and objecting to the disclosure.

ARTICLE XIII - TITLE, DOCUMENTS AND DATA

13.1 Materials and Equipment. Operator shall use commercially reasonable efforts to cause title to all materials, equipment, supplies, consumables, spare parts and other items purchased or obtained by Operator on an Operating Cost basis ("Facility Equipment") to pass directly from the vendor or supplier to, and vest in, each Owner to the extent of such Owner's Ownership Interest. Operator shall have no title or other claim to such items other than in its capacity as an Owner of the Facility.

13.2 Documents. All Manuals, operational data, Facility drawings, Operator reports and records and other materials and documents (both paper and electronic) created by Operator, its Affiliates or their respective employees, representatives or contractors in connection with performance of the Services are the property of each Owner to the extent of its Ownership Interest in the Facility. All such materials and documents shall be available for review by the Non-Operator Owner at all reasonable times during development and promptly upon completion. All such materials and documents required to be submitted for the approval of the Operating Committee shall be prepared and processed in accordance with the requirements and specifications set forth herein. However, the Operating Committee's approval of materials and documents submitted by Operator shall not relieve Operator of its responsibility to perform it obligations under this Agreement.

13.3 Proprietary Information. Where materials or documents prepared or developed by Operator or its Affiliates, or their respective employees, representatives or contractors, contain proprietary or technical information, systems, techniques or know-how previously developed by them or acquired by them from third parties (the "Operator Proprietary Information"), the Non-Operator Owner shall have an irrevocable license to use such Operator

Proprietary Information to the extent necessary for the operation or maintenance of the Facility at no additional cost to the Non-Operator Owner.

ARTICLE XIV - MISCELLANEOUS PROVISIONS

14.1 Assignment. This Agreement shall not be assignable, in whole or in part, by a Party without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed, except that this Agreement may be (i) collaterally assigned by an Owner without such consent to a Lender in connection with such Lender's financing of such Owner's Ownership Interest and (ii) assigned by an Owner (in whole but not in part) without such consent to the transferee of its Ownership Interest, whether by merger, division, sale of equity interest, or otherwise, in each case, solely to the extent that such transfer of its Ownership Interest is in accordance with the Ownership Agreement. Any assignment pursuant to this Section 14.1 shall not relieve the assigning Party of any of its obligations under this Agreement that arose prior to the date of such assignment. This Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the Parties.

14.2 Effect of Bankruptcy. The Parties intend that, in the event of a Bankruptcy, payments required under this Agreement shall be deemed to be administrative expenses as defined in 11 U.S.C. §503.

14.3 Access. The Non-Operator Owner and Lenders and their agents and representatives shall have access to the Facility, all Facility operations and any documents, materials and records and accounts relating to the Facility operations for purposes of inspection and review. Upon the request of the Non-Operator Owner and its agents and representatives, Operator shall provide such Persons with access to all data and logs Operator maintains regarding the Facility. During any inspection or review of the Facility, the Non-Operator Owner and Lenders and their agents and representatives shall comply with all of Operator's safety and security procedures, and shall conduct inspections and reviews in such a manner as to cause minimum interference with Operator's activities. Operator also shall cooperate with the Non-Operator Owner in allowing its agents and representatives access to the Facility.

14.4 Subcontractors; Subagents.

14.4.1 Operator shall have the right to hire third-party subcontractors or to acquire rights from third parties to provide all or part of any Services hereunder without the prior consent of the Operating Committee. The cost of such third-party Services or acquisition of such rights shall be Operating Costs in accordance with Section 7.2.1. Operator, for the benefit of the Owners, shall use commercially reasonable efforts to obtain from all subcontractors and suppliers, including any subcontractors and suppliers who are Affiliates of Operator, customary guarantees and warranties to the extent available with respect to the equipment, goods, services or other work provided or performed by such subcontractor and supplier. Notwithstanding the foregoing or anything to the contrary, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned or delayed, procure or enter into any agreement with any third-party subcontractor with respect to the Services with a cost included in the Operating Costs in excess of $500,000 in any Year. Each agreement with a third-party subcontractor shall reflect costs that are on an arm's-length basis

and no greater in any material respect than Operator could reasonably provide on Operator's own (or through its Affiliates) without material hardship.

14.4.2 Operator may delegate any obligations hereunder to one or more Affiliates, or designate one or more Affiliates as subagents for the performance of its obligations, and, to the extent such Affiliate performs or acts as subagent with respect to any obligation of Operator hereunder, such Affiliate shall enjoy the rights and benefits of Operator pursuant to this Agreement (including, for the avoidance of doubt, Article X and Article XI hereof). Notwithstanding the foregoing, Operator shall not, without the prior written approval of Non-Operator Owner, such approval not to be unreasonably withheld, conditioned, or delayed, procure or enter into any agreement with any of its Affiliates (other than for Facility Personnel to perform the Services) (i) with a committed value in excess of $500,000 or (ii) that may not be cancelled by or at the request of Non-Operator Owner upon no more than ninety (90) days' notice without penalty. Each agreement with an Affiliate of Operator, other than for Facility Personnel to perform the Services, shall reflect costs that are no greater in any material respect than Operator could obtain on an arm's-length basis with a bona fide third party at such time. Notwithstanding anything to the contrary in this Agreement, Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the Ownership Agreement to AEPSC without the consent of Non-Operator Owner, subject to Section 14.4.3.

14.4.3 If one or more Affiliates perform Services as subagents or subcontractors hereunder, Service Provider shall remain liable for such Affiliate's obligations hereunder and for any breach by such Affiliate of the terms of this Agreement (to the same extent as if such breach was committed by Service Provider).

14.5 Not for Benefit of Third Parties. Except where a contrary intention is expressly stated, this Agreement and each provision hereof are for the exclusive benefit of the Parties that executed this Agreement and not for the benefit of any third party.

14.6 Force Majeure.

14.6.1 Events Constituting Force Majeure. A "Force Majeure Event" is any event that (i) restricts or prevents performance under this Agreement, (ii) is not within the reasonable control of the Party affected or caused by the fault or negligence of the affected Party and (iii) cannot be overcome or avoided by the exercise of due care. Force Majeure Events include the following, so long as in each case the requirements of the foregoing clauses (i), (ii) and (iii) are satisfied, failure of a Party to perform due to drought, flood, earthquake, storm, fire, lightning, tornado or other unusually severe storm or environmental conditions, epidemic, war (whether declared or undeclared), terrorism (whether domestic or foreign, state-sponsored or otherwise), revolution, insurrection, riot, civil disturbances, protests, sabotage (but not including any sabotage involving personnel of Operator), work stoppages (i.e., strikes) (but not including any work stoppages or strikes involving any personnel of Operator, whether on-site or off-site), accident or curtailment of supply, unavailability of construction materials or replacement equipment beyond the affected Party's control, inability to obtain and maintain Permits from any Governmental Authority for the Facility, other acts or omissions of any Governmental Authority, including any form of compulsory government acquisition or condemnation of all or part of the Facility (including a "taking"), restraint by court order, changes in Applicable Law that affect

performance under this Agreement, other acts of Governmental Authorities including in response to any of the foregoing. Except for the obligation of each Party to make payments of amounts owed to the other Party, each Party is excused from performance and will not be considered to be in default in respect to any obligation if and to the extent that performance of such obligation is prevented by a Force Majeure Event. Neither Party shall be relieved of its obligations under this Agreement solely because of increased costs or other adverse economic consequences that may be incurred through the performance of such obligations.

14.6.2 Notice. If a Party's ability to perform its obligations under this Agreement is affected by a Force Majeure Event, the Party claiming such inability shall (i) promptly notify the other Party of the Force Majeure Event, its cause, its anticipated duration and any action being taken to avoid or minimize its effect and confirm the same in writing within three (3) Business Days of its discovery, (ii) promptly supply such available information about the Force Majeure Event and its cause as reasonably may be requested by the other Party and (iii) work diligently to remove the cause of the Force Majeure Event or to lessen its effect.

14.6.3 Scope. The suspension of performance arising from a Force Majeure Event shall be of no greater scope and no longer duration than necessary. The excused Party shall use its reasonable best efforts to remedy its inability to perform.

14.7 Dispute Resolution. Any and all disputes shall be resolved pursuant to the dispute resolution procedures set forth in the Ownership Agreement.

14.8 Amendments. No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Parties.

14.9 Survival. Notwithstanding any provisions to the contrary, the obligations set forth in Article VII and Article VIII, Article X, Article XI and Article XII, Article XIV the limitations on liabilities set forth in Article XI will survive, in full force, the expiration or termination of this Agreement.

14.10 No Waiver. No delay, waiver or omission by the Non-Operator Owner or Operator to exercise any right or power arising from any breach or default by the Non-Operator Owner or Operator with respect to any of the terms, provisions or covenants of this Agreement shall be construed to be a waiver by the Non-Operator Owner or Operator of any subsequent breach or default of the same or other terms, provisions or covenants on the part of the Non-Operator Owner or Operator.

14.11 Notices. Any written notice required or permitted under this Agreement shall be deemed to have been duly given on the date of receipt, and shall be either delivered personally to the Party to whom notice is given, or mailed to the Party to whom notice is to be given, by facsimile, courier service or first-class registered or certified mail, return receipt requested, postage prepaid, and addressed to the addressee at the address indicated below, or at the most recent address specified by written notice given in the manner provided in this Section 14.11:

If to Operator:

[_____]
[_____]
[_____]

If to the Non-Operator Owner:

[_____]
[_____]
[_____]

14.12 Representations and Warranties. Each Party represents and warrants to the other Party that, as of the date hereof:

14.12.1 Existence. It is duly organized and validly existing under the laws of the state of its organization and has all requisite power and authority to own its property and assets and conduct its business as presently conducted or proposed to be conducted under this Agreement.

14.12.2 Authority. It has the power and authority to execute and deliver this Agreement, to consummate the transactions contemplated hereby and to perform its obligations hereunder.

14.12.3 Validity. It has taken all necessary action to authorize its execution, delivery and performance of this Agreement, and this Agreement constitutes the valid, legal and binding obligation of such Party enforceable against it in accordance with its terms, except as such enforcement may be limited by Bankruptcy, insolvency, moratorium or similar laws affecting the rights of creditors or by general equitable principles (whether considered in a proceeding in equity or at law).

14.12.4 No Conflict. Neither the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, nor the fulfillment of the terms and conditions hereof, conflicts with or violates any provision of its constituting documents.

14.12.5 No Consent. No consent or approval (including any Permit that such warranting Party is required to obtain) is required from any third party (including any Governmental Authority) for either the valid execution and delivery of this Agreement, or the performance by such Party of its obligations under this Agreement, except such as have been duly obtained or will be obtained in the ordinary course of business.

14.12.6 No Breach. None of the execution or delivery of this Agreement, the performance by such Party of its obligations in connection with the transactions contemplated hereby, or the fulfillment of the terms and conditions hereof either conflicts with, violates or results in a breach in any material respect of, any Applicable Law currently in effect, or conflicts with, violates or results in a breach of, or constitutes a default under or results in the imposition or creation of, any lien or Encumbrance under any material agreement or instrument to which it is a party or by which it or any of its properties or assets are bound.

14.12.7 No Material Claims. It is not a party to any legal, administrative, arbitral or other proceeding, investigation or controversy pending or threatened that would adversely affect such Party's ability to perform its obligations under this Agreement.

14.13 Additional Representation and Warranty by Operator. Operator further represents and warrants to the Non-Operator Owner that it has, or has obtained through the retention of a qualified operations and maintenance service provider, substantial expertise and experience in the operation and maintenance of comparable power generation facilities and it, or its applicable subcontractor, is fully qualified to provide such services at the Facility in accordance with the terms of this Agreement.

14.14 Counterparts. The Parties may execute this Agreement in counterparts that, when signed by each of the Parties, constitute one and the same instrument. Thereafter, each counterpart shall be deemed an original instrument as against any Party who has signed it. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission shall be effective as delivery of a manually executed counterpart of this Agreement.

14.15 Governing Law; Venue; Waiver of Jury Trial. The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Party hereby agrees that any Action arising out of or relating to this Agreement brought by a Party(or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Parties hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Facility or any Facility asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT.

14.16 Interpretation. Titles or captions contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe or otherwise affect the scope or meaning of this Agreement or the intent of any provision hereof. All exhibits and appendices attached hereto are considered a part hereof as though fully set forth herein. This Agreement was jointly drafted and negotiated by the Parties. In the event of a dispute, this Agreement shall not be construed against either Party based upon its drafting.

14.17 Severability. If any provision of this Agreement, or the application of any such provision to any Person or circumstance, is held invalid by any court or other forum of competent jurisdiction, the remainder of this Agreement, or the application of such provision to Persons or circumstances other than those as to which it is held invalid, shall nevertheless remain

in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in a manner materially adverse to a Party. Upon any such determination of invalidity, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in an acceptable manner in order that this Agreement is consummated as originally contemplated to the greatest extent possible.

14.18 Cooperation in Financing. Operator shall execute and deliver any customary and reasonable agreement and consent to assignment, together with an opinion of counsel at Non-Operator Owner's expense, as may be reasonably requested by Non-Operator Owner in connection with any financing of the Facility. Operator shall promptly respond to reasonable requests, including requests for management presentations, by Non-Operator Owner and any of its Lenders or their representatives, in each case at Non-Operator Owner's sole cost and expense, for information regarding the Operator and its performance of its duties hereunder and the operation, maintenance and administration of the Facility. Operator agrees to use commercially reasonable efforts to cooperate with any of Non-Operator Owner's Lenders and their representatives and to provide such Lenders and representatives with reasonable access to and tours of the Facility (including review of documents, materials, records and accounts), in each case at Non-Operator Owner's sole cost and expense.

[*Signature page follows.*]

IN WITNESS WHEREOF, the Parties have executed this Agreement through their duly authorized officers as of the date set forth in the preamble to this Agreement.

KENTUCKY POWER COMPANY

By: _____
Name:
Title:

WHEELING POWER COMPANY

By: _____
Name:
Title:

APPENDIX A – SCOPE OF SERVICES

Routine Services	Provide operational services as reasonably necessary for electrical power generation.
Detailed Programs	Implement Operator human resources program. Implement Operator-drafted, Owner-approved programs in safety, administration, maintenance, and training. Implement Facility's existing programs in operating, maintenance, chemistry, NERC and environmental compliance (or, at the Operating Committee's request, develop or enhance such programs at actual cost and implement). Ensure compliance with NERC requirements, Environmental Law, Applicable Law, and all Permits.
Routine Maintenance	Perform routine and preventive maintenance actions on all Facility systems and equipment in accordance with vendor instructions and the maintenance plan for the Facility. This program includes: **Service Checks** – Conduct visual equipment inspections and log significant parameters such as pressures, temperatures, and flow rates. Trend and analyze this information as appropriate. **Routine and Fixed Interval Maintenance** –Identify preventive maintenance requirements. Schedule and assign routine maintenance during Facility operation, planned outages, and forced or unscheduled outages.
Predictive Maintenance Program	As appropriate, conduct/oversee predictive maintenance within the cost-effective capability of the Facility Personnel. For those maintenance requirements that are not cost-effective for the Facility Personnel, oversee predictive maintenance services provided by vendors.
Major Maintenance and Repairs	In coordination with and support of the Facility Agreements and generation plan, arrange for scheduled inspections and overhauls on major equipment. Retain vendors for the benefit of the Owners for unscheduled major repairs as required and manage and oversee repairs and modifications.
Capital Improvements	Conduct/oversee all capital improvements. As appropriate, retain vendors for the benefit of the Owners to design, construct and implement capital improvements.
Facility Outages	Use commercially reasonable efforts to manage all Facility outages (planned, unscheduled, forced) to optimize outage duration and impact on production: **Task Assignment** – Identify and schedule all maintenance that requires a Facility outage or equipment to be taken out of service.

	Work Schedule – Develop and implement a schedule to track material outage preparations, work and testing, including corrective maintenance actions, contractor work and scheduled preventive maintenance. Conduct preparations to support this plan, including ordering and receiving required spare parts.
Assistance to the Non-Operator Owner and Operating Committee	Provide assistance to the Non-Operator Owner and the Operating Committee, as reasonably requested with the execution of the Non-Operator Owner's and the Operating committee's duties relative to operation of the Facility.
Facility Administration	Conduct administration to meet Operator requirements and Owners' goals, including: **Budgets** – Prepare annual Budgets and submit them for Operating Committee approval in accordance with the Ownership Agreement and this Agreement. Following approval, manage operations and expenditures to comply with each Budget. Generate budget variance reports, as required. **Procurement** – Establish and implement a purchasing system. Procure, for the benefit of the Owners, including negotiations and contracting, for all materials, equipment, chemicals, supplies, services, parts, and other miscellaneous items required for the provision of the Services. Pay all invoices in a timely manner. Provide credit support as required by third parties for the operation of the Facility, including contract counterparties and Governmental Authorities. Minimize Owner costs as much as feasible. **Inventory Control** – Implement a cost-effective inventory control system designed to ensure that spare parts, materials, and supplies are properly stored and accounted for and that adequate supplies are available at all times to support the provision of the Services. **Personnel Matters** – In compliance with Operator programs and policies, manage all payroll and employee relations, labor relations, and independent contractor issues, as required. These tasks include: employment; compensation and benefits; initial training; and employee and independent contractor relations. Provide reasonable support to recruit, hire, transfer, or otherwise acquire and retain qualified Facility Personnel to maintain the staffing levels and skill mix required for successful long-term provision of the Services. **Community Relations** – In coordination with and with the approval of the Operating Committee, conduct a community relations program to establish the Facility and its employees as "good citizens" in the local community.

	Regulatory – Perform all duties set forth in Section 7.8 of the Ownership Agreement with respect to Emission Allowances (as defined therein).
Work Assignment	Assign work to either Facility Personnel or vendors as cost-effective and appropriate based on overall guidance from the Operating Committee. Normally, Facility Personnel conduct preventive maintenance and actions requiring a high degree of Facility knowledge and vendors perform tasks needing equipment or expertise that are not cost-effective to maintain at the Facility. Vendors also perform tasks that make sense to minimize outage time and costs.
Buildings and Grounds	Arrange for janitorial, garbage pickup and landscape services and maintain all access roads, office buildings, and other structures in reasonable repair.
Reports	Prepare and submit operation and maintenance service reports as requested relative to performance, including environmental compliance records, maintenance and repair status, Facility operating data, and any other information reasonably requested by the Operating Committee or the Non-Operator Owner.
Security	Implement or arrange for implementation of security measures in accordance with the Operating Committee-approved Facility security plan.
Safety	Continue to implement Corporate and Plant Level Safety Programs including on-site visits and discussions at the facility.
PJM Capacity Analysis	Analysis and plant level information to PJM as part of PJM's FRR or RPM Capacity Market requirements
Information Systems	Manage the Facility's information technology infrastructure, including phone systems, internet connectivity, hardware and software. Implement or arrange for implementation of cybersecurity policies and procedures in compliance with NERC requirements and Applicable Law, in accordance with the Operating Committee-approved Facility cybersecurity plan.
Training Program	Implement a continuing program of training designed to orient new Facility Personnel, refresh/cross-train existing Facility Personnel, qualify/re-qualify Facility Personnel, and keep all Facility Personnel aware of Operating Committee -approved Facility safety requirements and emergency procedures. This program includes specialty skills training.
Drawing/Manual Maintenance	Maintain the Facility library and update the Manuals and vendor service manuals. Update (or arrange for updating) Facility drawings to reflect changes to the as-built configuration. In addition to

	document management, maintain physical Facility configuration control.
Fuel Purchasing and Handling	• Procure coal, reagents, fuel oil supply or transportation service agreements as needed to operate the Facility and establish and maintain reserves of coal in common stock piles of such quality and in such quantities as the Operating Committee shall determine • Contract administration for Fuel supply contracts along with legal review. • Third Party Settlements of fuel related supply and inventory tracking in ComTrac system • Joint Books Accounting to prepare information for billing among co-owners per agreement • Analysis of fuel related costs for data requests from regulatory bodies or joint owner • Provide fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by the Facility during each month. • Receive coal and provide fuel handling • Fuel coordinator functions to review fuel quality with third party suppliers at coal or limestone facilities. • Administer and reconcile volumes of all fuel with suppliers • Administer and comply with the requirements set forth in the Facility's fuel agreements, including quality testing and invoice review and approval • Administer and comply with the requirements set forth in the Facility's coal ash, gypsum and combustion byproduct disposal and sales agreements, including invoice review and approval
Day Ahead and Real Time Market Operations	• Unit Generation Dispatch – Monitor signals and take direction from PJM for generating units. Relay these directions, commitments and settings to the Unit Operators and Controls. Relay information on real time unit conditions to Transmission Owner (TO) and PJM. • GADS Reporting – Create GADS events as they are scheduled

	or occur. Submit monthly event reporting as required by NERC and PJM. • Outage Support and Communications to PJM – Relay outage/curtailment information from plant personnel to PJM. Schedule maintenance and planned outages/curtailments, and maintain updates as they arise. • Unit Characteristic Updates to PJM – Provide any relevant configuration updates related to generating units to PJM that may occur. • Telemetry – Maintain current real time telemetry to/from the plant, PJM and Market Operations control center.
Administration of Contracts	• Administer, perform and enforce all contractual obligations and arrangements, including all warranties applicable thereto, entered into by Operator for the benefit of the Owners with respect to the Facility • Act as agent on behalf of the Non-Operating Owner with respect to the administration, performance and enforcement of any contracts or purchase orders (including fuel supply or transportation contracts) with respect to the Facility that are in the name of the Non-Operator Owner as a result of the Non-Operator Owner having served as the Operator prior to the Effective Date
Insurance	• Procure on behalf of each Owner such property and other insurance policies as required by the insurance program established by the Operating Committee in accordance with the Ownership Agreement.
Decommissioning	• Manage and contract with vendors and other parties to perform Decommissioning Work. This includes the management of required regulatory filings, permitting, engineering assessments, and the contracting for demolition and or liability transfers. Upon mutual agreement between Operator and the Operating Committee, Operator may conduct all or a portion of the Facility and/or Site Decommissioning from its and its Affiliates resources.

APPENDIX B – INITIAL BUDGET AND PLAN

[To be attached as of the Effective Date]

APPENDIX C – OPERATING COSTS WORKSHEET/SAMPLE INVOICE

[See attached.]

INVOICE # xxx-xxxxxxxx

Month of Billing

PAYMENT DUE BY: Date Due

Kentucky Power Company
Attn: xxxx
Address
City, State Zip Code

Dear xxxx:

This is the billing report for Actual charges for the month of Month of billing for the Mitchell Generating Plant. Please include the invoice number above on your wire transfer to the receiving bank listed on that report. If you have any questions please call: xxxx at xxx-xxx-xxx or E-mail to xxx@aep.com

Operating & Maintenance Agreement as Operator Article VII, Section 2:	Amount
i. KPCO'S Actual cost of coal inventory receipts of Mitchell Power Plant.	$3,914,522.89
ii. KPCO'S Actual cost of coal handling inventory receipts of Mitchell Power Plant.	$249,855.00
iii. KPCO'S Actual cost of fuel oil inventory receipts of Mitchell Power Plant.	$12,185.50
iv. KPCO'S Actual cost of Limestone inventory receipts of Mitchell Power Plant.	$55,080.45
v. KPCO'S Actual cost of Urea inventory receipts of Mitchell Power Plant.	$19,351.35
vi. KPCO's share of total cost of operation of Mitchell Power Plant.	$227,744.80
vii. KPCO's share of total cost of maintenance of Mitchell Power Plant.	$295,700.00
viii. KPCO's share of total cost of fuel handling/fly ash of Mitchell Power Plant.	$50,000.00
ix. KPCO's share of A&G expenses.	$145,000.00
x. KPCO's share of Other Operating Costs.	$0.00
Total Operating Expenses	$4,969,439.98
KPCo's share of Capital Expenditures	$100,000.00
Storeroom Inventory Activity	$150,000.00
TOTAL AMOUNT DUE WHEELING POWER COMPANY	**$5,219,439.98**

Wiring Instructions		
	Name on Acct:	Wheeling Power Co
	Bank:	Bank
	Acct:	Acct
	ABA:	ABA
	Ref:	Invoice #, xxx-xxxxxxxx

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:31:47 AM

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Description	11. Project Nickel - Mitchell Plant OM Agreement [Execution Version] [10-26-2021]
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Format changes	0
Total changes	2

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit") ~~and associated plant, equipment, real estate and other related facilities~~, with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement"); ~~and~~

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law ~~(as defined below)~~, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance~~, decommissioning~~ or ~~retirement~~Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator, make such Project Assets (or the benefits thereof) available for the use of the Operator for the benefit of the Owners, including by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

~~"Applicable Law" means all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.~~

~~"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.~~

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth ~~above~~in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the

Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain~~, decommission~~ and ~~retire~~Decommission the Mitchell Plant in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance~~, decommissioning~~ and ~~retirement~~Decommissioning of the Mitchell Plant, including providing or permitting access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance~~, decommissioning~~ and ~~retirement~~Decommissioning of the Mitchell Plant.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that WPCo funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the resulting property, plant and equipment, or improvements thereto, shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive~~, in proportion to its respective Ownership Interest,~~ 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as set forth in Section 7.6 (including the applicable subsections in Section 7.6), in any hour, ~~the Owners~~each Owner shall share 50% of the minimum load responsibility of each Unit~~ in respective amounts proportionate to their respective Ownership Interests~~.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility ~~affiliate~~Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy~~ in an amount proportionate to their respective Ownership Interests at such time~~.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the ~~approved annual budget~~Capital Budget and the O&M Agreement.

3.2 ~~The dollar amounts associated with any additions to, replacements of, or retirements of, capitalizable facilities associated with the Mitchell Plant shall be allocated to each Owner in an amount proportionate to its respective Ownership Interest at the time such additions, replacements, or retirements are made~~In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or cause the Operator pursuant to the O&M Agreement to take, such actions to continue operating and

maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount and timing of funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance~~, decommissioning~~ and ~~retirement~~Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain~~, decommission~~ and ~~retire~~Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide ~~its share~~50% of any such amount required by the Owners pursuant to Section 4.1 ~~in an amount proportionate to its respective Ownership Interest at such time~~, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the ~~term of this Agreement~~Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that ~~satisfied~~satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half (~~1/2~~1/2) of the then-applicable annual operating ~~budget and annual capital~~ budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner ~~may be replaced by such~~ shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

~~"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.~~

~~"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.~~

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance~~, decommissioning~~ and ~~retirement~~Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the cost of the third-party credit support incurred by the Operator (including credit support furnished by an ~~affiliate~~Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed to by each Owner.

5.3 ~~At any time, each~~Each Owner~~'s respective shares~~ shall be responsible for, and own, 50% of the investment in the common coal stock piles~~ shall be proportionate to its respective Ownership Interest~~.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operator as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations~~,~~ and maintenance~~, decommissioning and retirement~~ expenses associated with the Mitchell Plant, as determined in accordance with ~~Sections 6.2 and 6.3~~this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner~~'s respective shares~~ shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b)~~ shall be proportionate to its respective Ownership Interest~~. Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. ~~This~~Each Owner shall be responsible for 50% of this monthly amount~~ shall be proportionate to the Owners' respective Ownership Interests~~; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c), in each calendar month, any operations and maintenance expenses directly attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to WPCo.

(e) ~~(d)~~ In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be ~~proportionate to their respective Ownership Interest~~allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) ~~(e)~~ In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be ~~shared based on~~allocated 50% to each Owner~~'s respective Ownership Interest~~.

(g) ~~(f)~~ Each Owner shall be charged ~~their respective Ownership Interest~~50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent ~~incurred by the Operator in~~ a different allocation for specific FERC ~~account not~~Accounts or otherwise ~~specifically referenced~~is specified in this Article ~~VI~~Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be ~~proportionate to their respective Ownership Interest~~50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 The cost of any ~~retirement, decommissioning,~~ replacement ~~or~~, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant~~, and any restoration or remediation required in connection therewith,~~ shall be ~~shared by~~allocated between the Owners in ~~proportion to their Ownership Interests~~accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) ELG Expenses shall be allocated exclusively to, and paid for by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6).

(c) If the in-service date of a capital item is anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines that a capital item (other than an ELG Upgrade) has a Useful Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Useful Life of such capital item) between the anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Useful Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to each Owner.

6.8 Each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is specified for such item in the Capital Budget or the Owners mutually agree to allocate such costs in another manner.

6.9 ~~6.8~~ Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its ~~proportionate share of the amounts described in in~~obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination, including but not limited to, any order disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, ~~annual capital budget,~~ annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section ~~7.10~~7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests~~.~~; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75%[1] of the costs pursuant to Section 6.7. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Useful Life of a capital item or the allocation of a capital expenditure between the Owners, the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to ~~approve~~adopt an annual operating budget, the approved annual operating budget from the previous year shall apply until such time as the new annual operating budget is approved. ~~If the Operating Committee fails to approve an annual capital budget, then only capital expenditures previously approved by the Operating Committee, or approved by the Operating Committee on an ad hoc basis, shall be permitted until such time as the new annual capital budget is approved.~~

(b) Establishment, modification and review of procedures and systems for dispatch, notification of dispatch, and Unit commitment under this Agreement, including any

[1] NTD: 75% is the threshold when the majority of the Useful Life of a capital item would occur after 2028.

Unit-commitment pursuant to Section 7.5 or commitment of its Called Capacity pursuant to Section 7.6(b).

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages, as well as the return to availability following an unplanned outage.

(d) ~~Decisions~~To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7.

(e) Determinations as to changes in the Unit capability.

(f) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(g) Approval of material contracts for fuel supply or transportation.

(h) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories.

(i) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.10.

(j) Review and approval of plans and procedures designed to ensure compliance with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(k) Supervision of the performance of, and provide direction as needed to, the Operator under the O&M Agreement.

(l) Decisions regarding the retirement, permanent removal from service or ~~decommissioning~~Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(m) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(n) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least yearly, and at such other times as an Owner may reasonably request.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 The Owners shall each make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine.

7.6 Application of this Section 7.6 (including subsections) is subject to (x) the receipt of any necessary regulatory approvals or waivers expressly granted for this Section 7.6; and (y) the Operating Committee establishing and approving procedures and systems for dispatch, including bidding the Mitchell Plant or any Unit as a single bid, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

(a) If a Unit is designated to be committed by both Owners, such Unit will be brought online or kept online. If neither Owner designates a Unit to be committed, such Unit will remain offline or be taken offline.

(b) When a Unit is designated to be committed by one Owner, but designated not to be committed by the other Owner, the Unit will be brought on line or kept on line if the Owner designating the Unit for commitment undertakes to pay any applicable start-up costs for the Unit, as well as any applicable minimum running costs for the Unit thereafter, in which event such Unit shall be brought on line or kept on line, as the case may be. The Owner so designating such Unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the Unit. "Available Capacity" means that portion of the Owners' aggregate Assigned Capacity that is currently capable of being dispatched. The Owner exercising this right shall be referred to as the "Calling Party," and the capacity called by that Owner in excess of its Assigned Capacity Percentage of the Available Capacity of that Unit shall be referred to as its "Called Capacity." The other Owner shall be referred to as the "Non-Calling Party". The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for such Unit. For purposes of this Agreement, KPCo's "Assigned Capacity Percentage" shall be 50%, and WPCo's "Assigned Capacity Percentage shall be 50%.

(c) The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share at the beginning of the next PJM operating day; provided that written notice is provided in advance of the day-ahead hourly forward market bid deadline in which PJM market participants may submit offers to sell and bids to buy energy for such PJM operating day (which, as of the date of this Agreement, is 11:00 am Eastern Prevailing Time, as established in PJM Manual 11). Upon delivery of such written notice, the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the Unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity from the Unit. In each calendar month, each Owner's respective shares of the Mitchell Plant Emissions Allowance

consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.7 Emission Allowances. To the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant ~~in an amount proportionate to its respective Ownership Interest at such time~~. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, each Owner will be responsible for acquiring the Emission Allowances required to satisfy~~, in an amount proportionate to its respective Ownership Interests at such time,~~ 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

~~7.8 Capital repairs and improvements to the Mitchell Plant will be determined by the Operating Committee pursuant to the annual budgeting process set forth in Section 7.9. Expenditures that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be assigned exclusively to, and paid for by, that Owner.~~

7.8 ~~7.9~~ At least 90 days before the start of each operating year, the Operator shall submit to the Operating Committee ~~a~~any proposed amendments to the Capital Budget and an

annual operating budget ~~and an annual capital budget~~for such operating year with respect to the Mitchell Plant, a proposed annual operating plan for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and ~~annual capital budget~~amendments to the Capital Budget shall be presented on a month-by-month basis~~ for each month during the next operating year~~, and shall include an estimate of the cost of any major repairs or improvements that are anticipated will occur during ~~such operating year~~the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual ~~budgets and~~operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual ~~budgets~~operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 ~~7.10~~ Notwithstanding anything in this Agreement to the contrary, in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the exclusive right to exercise remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder, without first obtaining the consent of the other Owner or the Operating Committee; provided, however, that notice of any such action described in this Section ~~7.10~~7.9 shall be sent to the other Owner at the time such action is taken. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout

Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") ~~(a)~~ without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which ~~shall not be unreasonably withheld, conditioned or delayed~~consent may be granted or withheld in the Non-Offering Owner's sole discretion;[2] provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (a) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (b) ~~unless~~ the Disposition ~~is~~shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (c) ~~unless~~ the Proposed Purchaser ~~agrees~~shall agree to and ~~assumes~~assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under ~~the Compliance Agreement by and among~~any applicable agreement with American Electric Power Company, Inc.~~, WPCo, KPCo and [ ]~~[1] ~~dated as of the Effective Date~~ (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant,[3] and (d) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 ~~All~~Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

[2] NTD: Proposed transfer restrictions subject to further review by AEP accounting.
[1] ~~NTD: Buyer to be inserted.~~
[3] NTD: Changes required so that Ownership Agreement stands on its own separate and apart from Nickel Process and could become effective prior to the Nickel closing.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance ~~(as defined below)~~ thereon, without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest ~~or~~, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

~~For purposes of this Section 9.4, "Encumbrance" shall mean (a) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.~~

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment, minus (D) the CapEx Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has

occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived and no Owner shall be liable for consequential, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner ~~involved in the dispute~~ may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement ~~if~~on the resolution of a Technical Dispute submitted to the Operating Committee ~~has not~~within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached ~~agreement.~~.

12.4 ~~12.3~~ Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 ~~12.4~~ Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

~~12.5 Each Owner hereby submits to the non-exclusive jurisdiction of the courts of the State of Ohio, the United States District Court for the Southern District of Ohio and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or such action was brought in an inconvenient court.~~

~~12.6 EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.~~

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of Ohio, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby submits to the non-exclusive jurisdiction of the courts of the State of Ohio, the United States District Court for the Southern District of Ohio and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including ~~but not limited to~~ the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement (provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo).

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, facsimile, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]

[_____]

Attn: _____

Phone: [_____]

Facsimile: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Facsimile: [_____]

Email: [_____]

All notices shall be effective upon receipt, or upon such later date following receipt as set forth in the notice. Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws, statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Available Capacity" shall have the meaning given to such term in Section 7.6(b).

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"Called Capacity" shall have the meaning given to such term in Section 7.6(b).

"Calling Party" shall have the meaning given to such term in Section 7.6(b).

"CapEx Adjustment" shall mean (a) 50% of (i) the total amount of ELG Expenses funded by WPCo on or prior to December 31, 2028, plus (ii) any capital expenditures (or portion thereof), other than ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction; provided, that, in no event shall the CapEx Adjustment exceed the Fair Market Value of the KPCo Interest, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant designed to comply with the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean (a) any mortgage, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary

obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, bureau or agency, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related ancillary documents) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.[4]

[4] NTD: The Asset Contribution Agreement is the transaction document by which WPCO's 50% Ownership Interest was transferred to WPCo. A 50% interest in the Mitchell Plant was contributed to Newco Wheeling Inc., which was merged into WPCo.

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Calling Party" shall have the meaning given to such term in Section 7.6(b).

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"Useful Life" means, with respect to a capital item, the shorter of (a) the reasonably expected useful life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital.

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:34:03 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\1. Project Nickel - Mitchell Plant Ownership Agreement [Auction Draft] [AEP Draft 8-6-2021].DOCX
Description	1. Project Nickel - Mitchell Plant Ownership Agreement [Auction Draft] [AEP Draft 8-6-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\2. Project Nickel - Mitchell Plant Ownership Agreement [Updated Auction Draft] [AEP Draft 9-17-2021].DOCX
Description	2. Project Nickel - Mitchell Plant Ownership Agreement [Updated Auction Draft] [AEP Draft 9-17-2021]
Rendering set	Standard

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Split/Merged cell	
Padding cell	

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Moved to	14
Style changes	0
Format changes	0
Total changes	405

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use ~~of the Operator for the~~and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership ~~Interest~~Interests.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to ~~take all actions~~ reasonably ~~necessary~~cooperate to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish, jointly in the Owners' name and under the Owners' control, and maintain such bank accounts (the "Operating Account") as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and such persons as reasonably requested by the Operator, as authorized signatories to the Operating Account, and all withdrawals by the Operator from the Operating Account shall be made only by the Operator or such designated persons in order for the Operator to comply with its obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A[1].

1.8 [Notwithstanding the provisions of this Article One, to the extent that ~~WPCo~~either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the directly resulting portion of property, plant and equipment, ~~or improvements thereto~~therefrom, shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.][2]

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY[3]

[1] Note to AEP: Please provide Exhibit A.
[2] Note to AEP: To discuss how this is envisioned to work with respect to enhancements, add-ons or improvements to pre-existing PP&E.
[3] Note to AEP: Discuss whether any ELG work could adversely affect capacity, generation or costs.

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as set forth in Section 7.6 (including the applicable subsections in Section 7.6), in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The ~~Owners shall cause the~~ Operator, pursuant to the O&M Agreement, from time to time ~~to~~shall make or cause to be made any necessary additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or ~~cause~~ instruct the Operator pursuant to the O&M Agreement to take, such actions to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities

and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.[4]

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount and timing of funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

[redacted]

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed ~~to~~ by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS[5]

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be mutually determined by the ~~Operator~~Owners as follows:[6]

(a) [In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

[5] Note to AEP: Discuss envisioned interplay with Article 2.
[6] Note to AEP: To discuss how this is intended to work. Consider including a sample calculation.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile [at the close] of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles [during such month]. [Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.][7]

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.]

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). [Administrative and General Expenses (FERC Accounts 920 – 935)

[7] Note to AEP: To discuss method of allocating the consumption that considers a party's loading having an adverse impact on heat rate and allocates cost based upon the heat rate curve of the unit and a party's load.

shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses.][8] Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses ~~directly~~to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income,

[8] Note to AEP: To discuss / confirm allocator.

gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 ~~The~~Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary, ELG Expenses shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6).

(c) ~~If~~Notwithstanding anything to the contrary, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on useful lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Useful Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Useful Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Useful Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to each Owner; provided, however, such other capital expenditures resulting in aggregate expenditures in excess of [110%] of any line item therefor reflected in, or otherwise in the aggregate of, the Capital Budget shall require the prior written approval of the Owners.

6.8 ~~Each~~In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected solely by reason of any regulatory order or other determination~~, including but not limited to, any~~

~~order~~ to the extent disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Ten.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75%~~[1]~~[9] of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $4,000,000. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Useful Life of a capital item or the allocation of a capital expenditure between the Owners, the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures and systems for dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or commitment of its Called Capacity pursuant to Section 7.6(b).

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and

~~[1]~~[9] NTD: 75% is the threshold when the majority of the Useful Life of a capital item would occur after 2028.

scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to changes in the Unit capability.

(f) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(g) Approval of material contracts for fuel supply or transportation.

(h) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(i) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.10.

(j) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(k) ~~Supervision~~Amendment, termination, extension or modification of, or supervision of the performance of, and provide direction as needed to, the Operator under, the O&M Agreement.

(l) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(m) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(n) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least ~~yearly~~quarterly, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the

Operating Committee each month substantially in the form of Exhibit B hereto and such reports shall be presented on a quarterly basis with respect to the relevant quarter for any meeting.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 The Owners shall each make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine.

7.6 Application of this Section 7.6 (including subsections) is subject to (x) the receipt of any necessary regulatory approvals or waivers expressly granted for this Section 7.6; and (y) the Operating Committee establishing and approving procedures and systems for dispatch, including bidding the Mitchell Plant or any Unit as a single bid, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

(a) If a Unit is designated to be committed by both Owners, such Unit will be brought online or kept online. If neither Owner designates a Unit to be committed, such Unit will remain offline or be taken offline.

(b) When a Unit is designated to be committed by one Owner, but designated not to be committed by the other Owner, the Unit will be brought on line or kept on line if the Owner designating the Unit for commitment undertakes to pay any applicable start-up costs for the Unit, as well as any applicable minimum running costs for the Unit thereafter, in which event such Unit shall be brought on line or kept on line, as the case may be. The Owner so designating such Unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the Unit. "Available Capacity" means that portion of the Owners' aggregate Assigned Capacity that is currently capable of being dispatched. The Owner exercising this right shall be referred to as the "Calling Party," and the capacity called by that Owner in excess of its Assigned Capacity Percentage of the Available Capacity of that Unit shall be referred to as its "Called Capacity." The other Owner shall be referred to as the "Non-Calling Party". The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for such Unit. For purposes of this Agreement, KPCo's "Assigned Capacity Percentage" shall be 50%, and WPCo's "Assigned Capacity Percentage shall be 50%.

(c) The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share at the beginning of the next PJM operating day; provided, that written notice is provided in advance of the day-ahead hourly forward market bid deadline in which PJM market participants may submit offers to sell and bids to buy energy for such PJM operating day (which, as of the date of this Agreement, is 11:00 am Eastern Prevailing Time, as established in PJM Manual 11). Upon delivery of such written notice, the Non-Calling Party shall have the right to schedule and dispatch the recalled capacity. At that point, the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the Unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity

from the Unit. In each calendar month, each Owner's respective shares of the Mitchell Plant Emissions Allowance consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.7 Emission Allowances.[10] To the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Mitchell Plant is subject to the Mitchell Emissions Limitations under the Compliance Agreement, dated as of hereof (the "Compliance Agreement"), by and among [Buyer], the Owners and American Electric Power Company, Inc. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

[10] Note to AEP: Draft to be conformed, as applicable, to the Compliance Agreement.

7.8 At least ~~90~~120 days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget an estimate of the cost of any major repairs or improvements that are anticipated ~~will~~to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.[11]

7.9 Notwithstanding anything in this Agreement to the contrary, in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of any Owner, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

[11] Note to AEP: Subject to review of capital budget, discuss term.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may directly or indirectly (except pursuant to a change in ownership of its ultimate parent entity or pursuant to Section 9.4) assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion;[~~2~~12] provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (a) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (b) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (c) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant,[~~3~~13] and (d) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (d), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing

[~~2~~12] NTD: Proposed transfer restrictions subject to further review by AEP accounting.
[~~3~~13] NTD: Changes required so that Ownership Agreement stands on its own separate and apart from Nickel Process and could become effective prior to the Nickel closing.

shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce and foreclose thereon), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory

Adjustment, minus (D) the CapEx Adjustment (such aggregate amount, the "Buyout Price"), provided, that notwithstanding anything to the contrary, the Buyout Price shall in no event be less than KPCo's portion of the Decommissioning Costs. The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that

are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and (i) such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay, and (ii) the Defaulting Owner does not contest, in good faith, the amount due pursuant to Article Twelve within then (10) days after receipt of such written notice (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any

obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical Expert or the Technical Expert's determination or the procedure by which a determination is reached. Notwithstanding anything in this Agreement, the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make

disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of ~~Ohio~~Delaware, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby submits to the ~~non-~~exclusive jurisdiction of the ~~courts of the State of Ohio~~Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the ~~Southern~~ District of ~~Ohio~~Delaware, or in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR

RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement ~~(provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo)~~.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, ~~facsimile,~~ e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

~~Facsimile: [_____]~~

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

~~Facsimile: [_____]~~

Email: [_____]

All notices shall be ~~effective upon receipt, or upon such later date following receipt as set forth in the notice~~deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public

disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day"

(regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.[14]

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Available Capacity" shall have the meaning given to such term in Section 7.6(b).

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"Called Capacity" shall have the meaning given to such term in Section 7.6(b).

"Calling Party" shall have the meaning given to such term in Section 7.6(b).

"CapEx Adjustment" shall mean (a) 50% of (i) the total amount of ELG Expenses funded by WPCo on or prior to December 31, 2028, plus (ii) any capital expenditures (or portion thereof), other than ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction; provided, that, (A) WACC in clause (b) shall be included in the calculation of the CapEx Adjustment only to the extent such WACC was approved by the applicable Governmental Authorities for cost recovery by KPCo from customers of KPCo and (B) in no event shall the CapEx Adjustment exceed the Fair Market Value of the KPCo Interest, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo

[14] Note to AEP: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.

(as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on ~~or prior to~~ December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital or other expenditures associated with implementation of the ELG Upgrades.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant ~~designed~~ to comply with the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller (provided, that such buyer shall be assumed for this purpose to have the highest and best ability to use the Mitchell Plant), in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to the seller. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related ancillary documents) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.[415]

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Calling Party" shall have the meaning given to such term in Section 7.6(b).

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Account" shall have the meaning given to such term in Section 1.6.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

[415] NTD: The Asset Contribution Agreement is the transaction document by which WPCO's 50% Ownership Interest was transferred to WPCo. A 50% interest in the Mitchell Plant was contributed to Newco Wheeling Inc., which was merged into WPCo. Note to AEP: Please provide a copy of the Asset Contribution Agreement, as Liberty needs to confirm the scope of the transferred assets.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"Useful Life" means, with respect to a capital item, the shorter of (a) the reasonably expected useful life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital.

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[Attached.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:35:08 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\2. Project Nickel - Mitchell Plant Ownership Agreement [Updated Auction Draft] [AEP Draft 9-17-2021].DOCX
Description	2. Project Nickel - Mitchell Plant Ownership Agreement [Updated Auction Draft] [AEP Draft 9-17-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\3. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 9-30-2021].DOCX
Description	3. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 9-30-2021]
Rendering set	Standard

Legend:	
Insertion	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved from	0

Moved to	0
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Format changes	0
Total changes	219

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership ~~Interests~~Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably ~~cooperate~~necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish~~, jointly in the Owners' name and under the Owners' control,~~[1] and maintain such bank accounts~~ (the "Operating Account")~~ as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and ~~such persons~~its representatives as reasonably requested by the Operator, as authorized signatories to ~~the Operating Account, and all~~such bank accounts. All withdrawals made by the Operator (or its representatives) from ~~the Operating Account~~such bank accounts shall be made only ~~by~~in connection with the performance of the Operator~~ or such designated persons in order for the Operator to comply with its~~'s obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A~~1~~.

1.8 ~~[~~Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the directly resulting portion of property, plant and equipment, ~~therefrom,~~or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.~~]~~[2]

[1] Note to Purchaser: AEP's relationship banking institution (Citi) cannot accommodate a bank account with more than one corporate account owner. Each account must have a single tax ID associated with it. Administration of bank account to be discussed.

~~[1] Note to AEP: Please provide Exhibit A.~~

~~[2] Note to AEP: To discuss how this is envisioned to work with respect to enhancements, add-ons or improvements to pre-existing PP&E.~~

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY[32]

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as set forth in Section 7.6 (including the applicable subsections in Section 7.6), in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall cause the Operator, pursuant to the O&M Agreement, from time to time ~~shall~~to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate

[32] Note to AEP: Discuss whether any ELG work could adversely affect capacity, generation or costs. Note to Purchaser: Net operational impact of ELG Upgrades to be discussed.

Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.[4]

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount ~~and~~, timing ~~of~~and invoicing processes for funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half (~~1/2~~1/2) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support

[redacted]

furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS[~~5~~3]

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be ~~mutually~~ determined by the ~~Owners~~Operating Committee[4] as follows:[~~6~~5]

(a) [In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to

[~~5~~3] Note to AEP: Discuss envisioned interplay with Article 2.

[4] Note to Purchaser: Discuss logistics/mechanics of conducting allocation – if not Operator, then Operating Committee is best situated to determine allocations.

[~~6~~5] Note to AEP: To discuss how this is intended to work. Consider including a sample calculation. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.

the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile [at the close] of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles [during such month]. [Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.][~~7~~6]

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.~~]~~

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these

[~~7~~6] Note to AEP: To discuss method of allocating the consumption that considers a party's loading having an adverse impact on heat rate and allocates cost based upon the heat rate curve of the unit and a party's load. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.

expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). [Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses.][87] Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance [or other expenses to the extent attributable to any ELG Upgrade][8] (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state

[87] Note to AEP: To discuss / confirm allocator.

[8] Note to Purchaser: Non-capital costs associated with ELG Upgrades to be discussed, including with respect to ELG Upgrades that reduce CCR costs as described in Section 6.7(b).

and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Expenses shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6); provided that, to the extent that ELG Upgrades are also used to satisfy, or result in reduced capital expenditures to comply with, the CCR Rule, KPCo shall be allocated its equitable share of ELG Expenses associated with such ELG Upgrades.[9]

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on ~~useful~~depreciable lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a ~~Useful~~Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the ~~Useful~~Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the ~~Useful~~Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

[9] Note to Purchaser: A portion of ELG Expenses will reduce the Owners' CCR Rule expenses and would be properly payable by KPCo, consistent with the testimony of KPCo in the KPSC proceeding. Appropriate mechanism for allocating compliance costs to be discussed.

(e) Any other capital expenditures shall be allocated 50% to each Owner~~; provided, however, such other capital expenditures resulting in aggregate expenditures in excess of [110%] of any line item therefor reflected in, or otherwise in the aggregate of, the Capital Budget shall require the prior~~, subject to the written approval of the ~~Owners~~Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected ~~solely~~ by ~~reason of~~ any regulatory order or other determination ~~to the extent~~ disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article ~~Ten~~Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75%[~~9~~10] of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not

[~~9~~10] NTD: 75% is the threshold when the majority of the ~~Useful~~Depreciable Life of a capital item would occur after 2028.

exceed ~~$4,000,000~~[ ] per year allocated to the other Owner.[11] Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the ~~Useful~~Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including the equitable allocation of any ELG Expense not fully allocated to WPCo), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures and systems for dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or commitment of its Called Capacity pursuant to Section 7.6(b).

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) ~~(e)~~ Determinations as to changes in the Unit capability.

(g) ~~(f)~~ Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) ~~(g)~~ Approval of material contracts for fuel supply or transportation.

(i) ~~(h)~~ Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) ~~(i)~~ Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners

[11] Note to Purchaser: Cap concept to be discussed.

and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.10.

(k) ~~(j)~~ Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) ~~(k)~~ Amendment, termination, extension or modification of the O&M Agreement, ~~or~~and supervision of the performance of, and ~~provide~~provision of direction as needed to, the Operator ~~under, the O&M Agreement~~.

(m) ~~(l)~~ Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) ~~(m)~~ Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) ~~(n)~~ Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto ~~and such reports shall be~~ presented on a quarterly basis ~~with respect to the relevant quarter for any meeting~~.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 The Owners shall each make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine.

7.6 Application of this Section 7.6 (including subsections) is subject to (x) the receipt of any necessary regulatory approvals or waivers expressly granted for this Section 7.6; and (y) the Operating Committee establishing and approving procedures and systems for dispatch, including bidding the Mitchell Plant or any Unit as a single bid, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

(a) If a Unit is designated to be committed by both Owners, such Unit will be brought online or kept online. If neither Owner designates a Unit to be committed, such Unit will remain offline or be taken offline.

(b) When a Unit is designated to be committed by one Owner, but designated not to be committed by the other Owner, the Unit will be brought on line or kept on line if the Owner designating the Unit for commitment undertakes to pay any applicable start-up costs for the Unit, as well as any applicable minimum running costs for the Unit thereafter, in which event such Unit shall be brought on line or kept on line, as the case may be. The Owner so designating such Unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the Unit. "Available Capacity" means that portion of the Owners' aggregate Assigned Capacity that is currently capable of being dispatched. The Owner exercising this right shall be referred to as the "Calling Party," and the capacity called by that Owner in excess of its Assigned Capacity Percentage of the Available Capacity of that Unit shall be referred to as its "Called Capacity." The other Owner shall be referred to as the "Non-Calling Party". The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for such Unit. For purposes of this Agreement, KPCo's "Assigned Capacity Percentage" shall be 50%, and WPCo's "Assigned Capacity Percentage shall be 50%.

(c) The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share at the beginning of the next PJM operating day; provided, that written notice is provided in advance of the day-ahead hourly forward market bid deadline in which PJM market participants may submit offers to sell and bids to buy energy for such PJM operating day (which, as of the date of this Agreement, is 11:00 am Eastern Prevailing Time, as established in PJM Manual 11). Upon delivery of such written notice, the Non-Calling Party shall have the right to schedule and dispatch the recalled capacity~~. At that point~~, and the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the Unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity from the Unit. In each calendar month, each Owner's respective shares of the Mitchell Plant Emissions Allowance consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.7 Emission Allowances.~~10~~ To the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the

~~10 Note to AEP: Draft to be conformed, as applicable, to the Compliance Agreement.~~

Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the ~~Mitchell Plant is~~Owners may be subject to ~~the Mitchell Emissions Limitations under the Compliance Agreement, dated as of hereof (the "Compliance Agreement"), by and~~additional rights and obligations under any applicable agreement among ~~[Buyer],~~ the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant.[12] As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ~~120~~[ninety (90)][13] days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect

[12] Note to Purchaser: The Ownership Agreement may become effective prior to the closing of the Nickel transaction and the execution of the Compliance Agreement.

[13] Note to Purchaser: Subject to further discussion. Timing for producing budgets would need to be generally consistent with AEP's overall budgeting processes for its utilities and generation resources.

throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.[11][14]

7.9 Notwithstanding anything in this Agreement to the contrary, in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of ~~any Owner~~the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may ~~directly or indirectly (except pursuant to a change in ownership of its ultimate parent entity or pursuant to Section 9.4)~~ assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition")

[11][14] Note to AEP: Subject to review of capital budget, discuss term.

to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion;[12] provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (~~a~~i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (~~b~~ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (~~c~~iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant,[13] and (~~d~~iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (~~d~~iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce ~~and~~thereon, but not to foreclose ~~thereon~~upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner[15]), without the prior consent of the other Owner; provided that neither Owner may enter into any financing

[12] ~~NTD: Proposed transfer restrictions subject to further review by AEP accounting.~~

[13] ~~NTD: Changes required so that Ownership Agreement stands on its own separate and apart from Nickel Process and could become effective prior to the Nickel closing.~~

[15] Note to Purchaser: This Agreement does not adequately contemplate a non-utility third party taking direct ownership of an Owner's Ownership Interest. As a result, such a foreclosure/transfer would require consent to allow the parties to adequately renegotiate this Agreement as needed to contemplate a financial institution or a third-party receiver becoming an Owner. In any event, a transfer of utility property also would require regulatory approvals.

agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment, minus (D) the CapEx Adjustment (such aggregate amount, the "Buyout Price"), ~~provided, that notwithstanding anything to the contrary, the Buyout Price shall in no event be less than KPCo's portion of the Decommissioning Costs~~.[16] The Coal Inventory Adjustment and

[16] Note to Purchaser: See changed to definition "Fair Market Value" which has been modified so that the Fair Market Value cannot be a negative number.

the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified

Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and ~~(i)~~ such failure is not remedied

within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay~~, and (ii) the Defaulting Owner does not contest, in good faith, the amount due pursuant to Article Twelve within then (10) days after receipt of such written notice~~ (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred

to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical Expert or the Technical Expert's determination or the procedure by which a determination is reached. ~~Notwithstanding anything in this Agreement~~ Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary,

under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of ~~Delaware~~New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby ~~submits~~agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the ~~Delaware Court of Chancery in and for New Castle County, or in the event (but only in the event) that such Delaware Court of Chancery does not have subject matter jurisdiction over such dispute, the United States District Court for the District~~aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of ~~Delaware,~~ or ~~in the event (but only in the event) that such United States District Court also does not have jurisdiction over such dispute, any Delaware State court sitting in New Castle County~~relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH

OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____] _____
[_____] _____

Attn: _____

Phone: [_____] _____

Email: [_____] _____

WHEELING POWER COMPANY
[_____] _____
[_____] _____
Attn: _____

Phone: [_____] _____

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to

obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar

month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.[14][17]

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Available Capacity" shall have the meaning given to such term in Section 7.6(b).

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"Called Capacity" shall have the meaning given to such term in Section 7.6(b).

"Calling Party" shall have the meaning given to such term in Section 7.6(b).

"CapEx Adjustment" shall mean (a) 50% of ~~(i) the total amount of ELG Expenses funded by WPCo on or prior to December 31, 2028, plus (ii)~~ any capital expenditures (or portion thereof), ~~other than~~including ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction; provided~~,~~ that~~, (A) WACC in clause (b) shall be included in the calculation of the CapEx Adjustment only to the extent such WACC was approved by the applicable Governmental Authorities for cost recovery by KPCo from customers of KPCo and (B)~~ in no event shall the CapEx Adjustment exceed the Fair Market Value of the KPCo Interest, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

[14][17] Note to AEP: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital ~~or other~~ expenditures associated with implementation of the ELG Upgrades.

~~"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to comply with the~~ "ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may not be ~~a positive or a negative number~~less than zero) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller ~~(provided, that such buyer shall be assumed for this purpose to have the highest and best ability to use the Mitchell Plant)~~, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory,

administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 ~~and on a non-recourse basis to the seller~~. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related ancillary documents) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.~~15~~18

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Calling Party" shall have the meaning given to such term in Section 7.6(b).

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

~~"Operating Account" shall have the meaning given to such term in Section 1.6.~~

"Operating Committee" shall have the meaning given to such term in Section 7.1.

~~15~~18 NTD: The Asset Contribution Agreement is the transaction document by which WPCO's 50% Ownership Interest was transferred to WPCo. A 50% interest in the Mitchell Plant was contributed to Newco Wheeling Inc., which was merged into WPCo. Note to AEP: Please provide a copy of the Asset Contribution Agreement, as Liberty needs to confirm the scope of the transferred assets.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

~~"Useful Life" means, with respect to a capital item, the shorter of (a) the reasonably expected useful life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).~~

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital.

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[Attached.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:36:45 AM

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Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\3. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 9-30-2021].DOCX
Description	3. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 9-30-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\4. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-8-2021].DOCX
Description	4. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-8-2021]
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Deletions	130
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Moved to	4
Style changes	0
Format changes	0
Total changes	282

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish[1] and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 [Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any segregated and stand-alone property, plant and equipment, ~~or improvements thereto~~ shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.][1]

[1] ~~Note to Purchaser: AEP's relationship banking institution (Citi) cannot accommodate a bank account with more than one corporate account owner. Each account must have a single tax ID associated with it. Administration of bank account to be discussed.~~

[1] Note to Sellers: We are continuing to struggle with how this would work in practice, in particular with respect to add-ons, enhancements or improvements, as well as in the context of any buyout (which already compensates for disproportionately funded capex).

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY[2]

2.1 [The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as set forth in Section 7.6 (including the applicable subsections in Section 7.6), in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.]

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate

[2] Note to AEP: Discuss whether any ELG work could adversely affect capacity, generation or costs. Note to Purchaser: Net operational impact of ELG Upgrades to be discussed.

Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support

furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 [The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.]

ARTICLE SIX
APPORTIONMENT OF STATION COSTS[3]

6.1 [The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee[4] as follows:[5]

(a) [In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to

[3] Note to AEP: Discuss envisioned interplay with Article 2.
[4] Note to Purchaser: Discuss logistics/mechanics of conducting allocation – if not Operator, then Operating Committee is best situated to determine allocations.
[5] Note to AEP: To discuss how this is intended to work. Consider including a sample calculation. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.

the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile [at the close] of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles [during such month]. [Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.][6]

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.]

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 [In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these

[6] Note to AEP: To discuss method of allocating the consumption that considers a party's loading having an adverse impact on heat rate and allocates cost based upon the heat rate curve of the unit and a party's load. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.

expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). [Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses.][7] Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance [or other expenses to the extent attributable to any ELG Upgrade][8] (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.]

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state

[7] Note to AEP: To discuss / confirm allocator.
[8] Note to Purchaser: Non-capital costs associated with ELG Upgrades to be discussed, including with respect to ELG Upgrades that reduce CCR costs as described in Section 6.7(b).

and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Expenses shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6)[; provided that, to the extent that ELG Upgrades are also used to satisfy, or result in reduced capital expenditures to comply with, the CCR Rule, KPCo shall be allocated its equitable share of ELG Expenses associated with such ELG Upgrades].[9]

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on ~~depreciable lives~~Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

[9] Note to Purchaser: A portion of ELG Expenses will reduce the Owners' CCR Rule expenses and would be properly payable by KPCo, consistent with the testimony of KPCo in the KPSC proceeding and the KPSC order. Appropriate mechanism for allocating compliance costs to be discussed. Note to Sellers: Parties to discuss, including how "equitable share" would be calculated and interplay with KPSC-approved rate-base (e.g., allocated portion should not be higher than the standalone CCR costs and appropriately factor in any effect on rate base).

(e) Any other capital expenditures shall be allocated 50% to each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75%[10] of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $[~~_____~~]1 million per year allocated to the other Owner.[11] Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners [(including the equitable allocation of

[10] ~~NTD: 75% is the threshold when the majority of the Depreciable Life of a capital item would occur after 2028.~~
[11] ~~Note to Purchaser: Cap concept to be discussed.~~

any ELG Expense not fully allocated to WPCo)], the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures and systems for dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or commitment of its Called Capacity pursuant to Section 7.6(b).

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.10.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 The Owners shall each make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine.

7.6 Application of this Section 7.6 (including subsections) is subject to (x) the receipt of any necessary regulatory approvals or waivers expressly granted for this Section 7.6; and (y) the Operating Committee establishing and approving procedures and systems for dispatch, including bidding the Mitchell Plant or any Unit as a single bid, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

(a) If a Unit is designated to be committed by both Owners, such Unit will be brought online or kept online. If neither Owner designates a Unit to be committed, such Unit will remain offline or be taken offline.

(b) When a Unit is designated to be committed by one Owner, but designated not to be committed by the other Owner, the Unit will be brought on line or kept on line if the Owner designating the Unit for commitment undertakes to pay any applicable start-up costs for the Unit, as well as any applicable minimum running costs for the Unit thereafter, in which event such Unit shall be brought on line or kept on line, as the case may be. The Owner so designating such Unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the Unit. "Available Capacity" means that portion of the Owners' aggregate Assigned Capacity that is currently capable of being dispatched. The Owner exercising this right

shall be referred to as the "Calling Party," and the capacity called by that Owner in excess of its Assigned Capacity Percentage of the Available Capacity of that Unit shall be referred to as its "Called Capacity." The other Owner shall be referred to as the "Non-Calling Party". The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for such Unit. For purposes of this Agreement, KPCo's "Assigned Capacity Percentage" shall be 50%, and WPCo's "Assigned Capacity Percentage shall be 50%.

(c) The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share at the beginning of the next PJM operating day; provided, that written notice is provided in advance of the day-ahead hourly forward market bid deadline in which PJM market participants may submit offers to sell and bids to buy energy for such PJM operating day (which, as of the date of this Agreement, is 11:00 am Eastern Prevailing Time, as established in PJM Manual 11). Upon delivery of such written notice, the Non-Calling Party shall have the right to schedule and dispatch the recalled capacity, and the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the Unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity from the Unit. In each calendar month, each Owner's respective shares of the Mitchell Plant Emissions Allowance consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.7 Emission Allowances. To the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant.~~12~~10 As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the

~~12~~10 Note to Purchaser: The Ownership Agreement may become effective prior to the closing of the Nickel transaction and the execution of the Compliance Agreement.

previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ~~[~~ninety (90)~~]~~[13] days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.[14]11

7.9 Notwithstanding anything in this Agreement to the contrary, in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any

[13] ~~Note to Purchaser: Subject to further discussion. Timing for producing budgets would need to be generally consistent with AEP's overall budgeting processes for its utilities and generation resources.~~

[14]11 Note to AEP: Subject to review of capital budget, discuss term.

termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may directly or indirectly (except pursuant to a change in ownership of its ultimate parent entity or pursuant to Section 9.4) assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been

assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner[15]), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

~~[15] Note to Purchaser: This Agreement does not adequately contemplate a non-utility third party taking direct ownership of an Owner's Ownership Interest. As a result, such a foreclosure/transfer would require consent to allow the parties to adequately renegotiate this Agreement as needed to contemplate a financial institution or a third-party receiver becoming an Owner. In any event, a transfer of utility property also would require regulatory approvals.~~

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment, ~~minus (D) the CapEx Adjustment~~ (such aggregate amount, the "Buyout Price").[16] The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the

[16] ~~Note to Purchaser: See changed to definition "Fair Market Value" which has been modified so that the Fair Market Value cannot be a negative number.~~

anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount

determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set

forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this

Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and

Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, as applicable, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the

prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove

AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement[; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder].

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners

as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with

respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.[17][12]

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Available Capacity" shall have the meaning given to such term in Section 7.6(b).

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"Called Capacity" shall have the meaning given to such term in Section 7.6(b).

"Calling Party" shall have the meaning given to such term in Section 7.6(b).

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028 [(excluding any capital expenditures, including ELG Expenses, attributable to any portion of property, plant or equipment, as applicable, that is deemed owned by WPCo pursuant to Section 1.8)], plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction; provided that[13] in no event shall the CapEx Adjustment exceed the Fair Market Value of the KPCo Interest, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

[17][12] Note to AEP: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.
[13] Note to Sellers: Deletion of WACC tied to KPCo customer cost recovery is subject to agreement on the Buyout Price construct.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the ~~shorter of (a) the reasonably expected~~regulated depreciable life ~~(in months)~~ of such capital item ~~and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC)~~for purposes of rate-making, as approved by the KPSC.

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCO consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may ~~not~~ be ~~less than zero~~a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to the seller. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related ancillary documents) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.~~18~~14

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Calling Party" shall have the meaning given to such term in Section 7.6(b).

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

~~18~~14 NTD: The Asset Contribution Agreement is the transaction document by which WPCO's 50% Ownership Interest was transferred to WPCo. A 50% interest in the Mitchell Plant was contributed to Newco Wheeling Inc., which was merged into WPCo. Note to AEP: Please provide a copy of the Asset Contribution Agreement, as Liberty needs to confirm the scope of the transferred assets.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital.

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[Attached.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:37:16 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\4. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-8-2021].DOCX
Description	4. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-8-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\5. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-16-2021].DOCX
Description	5. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-16-2021]
Rendering set	Standard

Legend:	
Insertion	
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Moved to	
Style change	
Format change	
~~Moved deletion~~	
Inserted cell	
Deleted cell	
Moved cell	
Split/Merged cell	
Padding cell	

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Moved to	0
Style changes	0
Format changes	0
Total changes	81

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 ~~[~~Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any ~~segregated and stand-alone~~ property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.~~]~~[1]

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY[2]

[1] ~~Note to Sellers: We are continuing to struggle with how this would work in practice, in particular with respect to add-ons, enhancements or improvements, as well as in the context of any buyout (which already compensates for disproportionately funded capex).~~

[2] ~~Note to AEP: Discuss whether any ELG work could adversely affect capacity, generation or costs. Note to Purchaser: Net operational impact of ELG Upgrades to be discussed.~~

2.1 ~~[~~The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as ~~set forth in~~may be determined by the Operating Committee in accordance with Section 7.6 ~~(including the applicable subsections in Section 7.6)~~, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.~~]~~

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 ~~[~~The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating

Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.~~]~~

ARTICLE SIX
APPORTIONMENT OF STATION COSTS[3]

6.1 ~~[~~The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee[4] as follows:[5]

(a) ~~[~~In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile ~~[~~at the close~~]~~ of

[3] ~~Note to AEP: Discuss envisioned interplay with Article 2.~~
[4] ~~Note to Purchaser: Discuss logistics/mechanics of conducting allocation – if not Operator, then Operating Committee is best situated to determine allocations.~~
[5] ~~Note to AEP: To discuss how this is intended to work. Consider including a sample calculation. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.~~

such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles [during such month]. [Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.][6]

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.[

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 [In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). [Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses.][7] Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be

[6] Note to AEP: To discuss method of allocating the consumption that considers a party's loading having an adverse impact on heat rate and allocates cost based upon the heat rate curve of the unit and a party's load. Note to Purchaser: Allocations be discussed in context of expected PJM bidding and dispatch.
[7] Note to AEP: To discuss / confirm allocator.

individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance ~~[~~or other expenses to the extent attributable to any ELG Upgrade~~]~~[8] (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.~~]~~

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

[8] ~~Note to Purchaser: Non-capital costs associated with ELG Upgrades to be discussed, including with respect to ELG Upgrades that reduce CCR costs as described in Section 6.7(b).~~

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Expenses shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6)~~[~~; provided that, to the extent that ELG Upgrades are also used to satisfy, or result in reduced capital expenditures to comply with, the CCR Rule, KPCo shall be allocated its equitable share of ELG Expenses associated with such ELG Upgrades~~]~~.[9] The Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to KPCo's equitable share of ELG Expenses to be allocated to KPCo in accordance with this Section 6.7(b).

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such

~~[9] Note to Purchaser: A portion of ELG Expenses will reduce the Owners' CCR Rule expenses and would be properly payable by KPCo, consistent with the testimony of KPCo in the KPSC proceeding and the KPSC order. Appropriate mechanism for allocating compliance costs to be discussed. Note to Sellers: Parties to discuss, including how "equitable share" would be calculated and interplay with KPSC-approved rate base (e.g., allocated portion should not be higher than the standalone CCR costs and appropriately factor in any effect on rate base).~~

item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $~~1~~5 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners ~~[~~(including the equitable allocation of any ELG Expense not fully allocated to WPCo)~~]~~, the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or ~~commitment of its Called Capacity pursuant to~~ Section 7.6~~(b).~~

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Engagement or retention of a Technical Expert to make recommendations with respect to KPCo's equitable share of ELG Expenses to be allocated to KPCo in accordance with Section 6.7(b).

(g) ~~(f)~~ Determinations as to changes in the Unit capability.

(h) ~~(g)~~ Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(i) ~~(h)~~ Approval of material contracts for fuel supply or transportation.

(j) ~~(i)~~ Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(k) ~~(j)~~ Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.10.

(l) ~~(k)~~ Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(m) ~~(l)~~ Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(n) ~~(m)~~ Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(o) ~~(n)~~ Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(p) ~~(o)~~ Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall ~~each~~ make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 ~~Application of this Section 7.6 (including subsections) is~~In the event an Owner desires to separately schedule and dispatch any Unit, subject to ~~(x)~~ the receipt of any necessary regulatory approvals or waivers ~~expressly granted for this Section 7.6; and (y)~~, the Operating Committee ~~establishing~~shall establish and ~~approving~~implement procedures and systems for separate scheduling and dispatch~~, including bidding the Mitchell Plant or any Unit as a single bid~~ by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability.

~~(a) If a Unit is designated to be committed by both Owners, such Unit will be brought online or kept online. If neither Owner designates a Unit to be committed, such Unit will remain offline or be taken offline.~~

~~(b) When a Unit is designated to be committed by one Owner, but designated not to be committed by the other Owner, the Unit will be brought on line or kept on line if the Owner designating the Unit for commitment undertakes to pay any applicable start-up costs for the Unit, as well as any applicable minimum running costs for the Unit thereafter, in which event such Unit shall be brought on line or kept on line, as the case may be. The Owner so designating such Unit to be committed shall have the right to schedule and dispatch up to all of the Available Capacity of the Unit. "Available Capacity" means that portion of the Owners' aggregate Assigned Capacity that is currently capable of being dispatched. The Owner exercising this right shall be referred to as the "Calling Party," and the capacity called by that Owner in excess of its Assigned Capacity Percentage of the Available Capacity of that Unit shall be referred to as its "Called Capacity." The other Owner shall be referred to as the "Non-Calling Party". The Calling Party shall provide reasonable notice to the Non-Calling Party of its call, including any start-up or shut-down time for such Unit. For purposes of this Agreement, KPCo's "Assigned Capacity Percentage" shall be 50%, and WPCo's "Assigned Capacity Percentage shall be 50%.~~

~~(c) The Non-Calling Party can reclaim any Called Capacity attributable to its Assigned Capacity share at the beginning of the next PJM operating day; provided, that written notice is provided in advance of the day-ahead hourly forward market bid deadline in which PJM market participants may submit offers to sell and bids to buy energy for such PJM operating day (which, as of the date of this Agreement, is 11:00 am Eastern Prevailing Time, as established in PJM Manual 11). Upon delivery of such written notice, the Non-Calling Party shall have the right to schedule and dispatch the recalled capacity, and the Non-Calling Party shall resume its responsibility for its share of any applicable start-up costs for the Unit and prospectively shall bear its responsibility for the costs associated with its Assigned Capacity from the Unit. In each calendar month, each Owner's respective shares of the Mitchell Plant Emissions Allowance consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.~~

7.7 Emission Allowances. To the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their

Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant.[10] As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.[11]

7.9 Notwithstanding anything in this Agreement to the contrary, in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly

[10] ~~Note to Purchaser: The Ownership Agreement may become effective prior to the closing of the Nickel transaction and the execution of the Compliance Agreement.~~

[11] ~~Note to AEP: Subject to review of capital budget, discuss term.~~

by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may ~~directly or indirectly (except pursuant to a change in ownership of its ultimate parent entity or pursuant to Section 9.4)~~ assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to

and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment~~,~~ (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the

Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs

Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or

otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical

Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement~~, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset~~[1] following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, ~~the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, as applicable,~~ then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the

[1] Note to Purchaser: The O&M Agreement already contains a Late Payment Rate. Any other agreements between the parties should stand alone as to whether or not interest is charged.

prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove

AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement[;]; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder[.].

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners

as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with

respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.[12]

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

~~"Available Capacity" shall have the meaning given to such term in Section 7.6(b).~~

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

~~"Called Capacity" shall have the meaning given to such term in Section 7.6(b).~~

~~"Calling Party" shall have the meaning given to such term in Section 7.6(b).~~

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028 ~~[(excluding any capital expenditures, including ELG Expenses, attributable to any portion of property, plant or equipment, as applicable, that is deemed owned by WPCo pursuant to Section 1.8)]~~, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction~~; provided that[13] in no event shall the CapEx Adjustment exceed the Fair Market Value of the KPCo Interest, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b)~~.[2]

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

~~[12] Note to AEP: Discuss extent to which terms should conform across O&M Agreement and Operating Agreement.~~
~~[13] Note to Sellers: Deletion of WACC tied to KPCo customer cost recovery is subject to agreement on the Buyout Price construct.~~
[2] Note to Purchaser: Deleted proviso now duplicative of the definition of Adjusted Fair Market Value.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the ~~regulated~~shorter of (a) the reasonably expected depreciable life (in months) of such capital item ~~for purposes of rate making, as approved by the KPSC~~and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with ~~KPCO~~KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 ~~and on a non-recourse basis to the seller~~. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related ~~ancillary documents~~indemnity agreements) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.~~14~~[3]

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

~~"Non-Calling Party" shall have the meaning given to such term in Section 7.6(b).~~

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

~~14 NTD: The Asset Contribution Agreement is the transaction document by which WPCO's 50% Ownership Interest was transferred to WPCo. A 50% interest in the Mitchell Plant was contributed to Newco Wheeling Inc., which was merged into WPCo. Note to AEP: Please provide a copy of the Asset Contribution Agreement, as Liberty needs to confirm the scope of the transferred assets.~~[3] Note to Purchaser: Parties to discuss.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually.[4]

"WPCo" shall have the meaning given to such term in the Preamble.

[4] Note to Purchaser: Added for clarity and for consistency with regulatory treatment of compounding on AFUDC.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:38:15 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\5. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-16-2021].DOCX
Description	5. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-16-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\6. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-21-2021].DOCX
Description	6. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-21-2021]
Rendering set	Standard

Legend:	
Insertion	
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Style change	
Format change	
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Moved cell	
Split/Merged cell	
Padding cell	

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Moved from	3

Moved to	3
Style changes	0
Format changes	0
Total changes	193

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Expenses as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant

generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel

and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502 of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Expenses) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Expenses shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6); provided that, ~~to the extent that ELG Upgrades are also used to satisfy, or result in reduced capital expenditures to comply with, the CCR Rule, KPCo shall be allocated its equitable share of ELG Expenses associated with such ELG Upgrades. The Operating Committee shall engage or retain a Technical Expert to make recommendations~~any dispute with respect to ~~KPCo's equitable share~~the determination of ELG Expenses ~~to~~shall be ~~allocated to KPCo in accordance with this Section 6.7(b)~~a Technical Dispute.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $~~5~~1 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including the equitable allocation of any ELG Expense not fully allocated to WPCo), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

~~(f) Engagement or retention of a Technical Expert to make recommendations with respect to KPCo's equitable share of ELG Expenses to be allocated to KPCo in accordance with Section 6.7(b).~~

(f) ~~(g)~~ Determinations as to changes in the Unit capability.

(g) ~~(h)~~ Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) ~~(i)~~ Approval of material contracts for fuel supply or transportation.

(i) ~~(j)~~ Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) ~~(k)~~ Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section ~~7.10~~7.9.

(k) ~~(l)~~ Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) ~~(m)~~ Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) ~~(n)~~ Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) ~~(o)~~ Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) ~~(p)~~ Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. ~~To~~Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Expenses and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement[1] following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

[1] Note to Purchaser: The O&M Agreement already contains a Late Payment Rate. Any other agreements between the parties should stand alone as to whether or not interest is charged.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any

such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Expenses, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.[2]

"Capital Budget" shall have the meaning given to such term in Section 1.7.

~~"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.~~"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with

[2] Note to Purchaser: Deleted proviso now duplicative of the definition of Adjusted Fair Market Value.

Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Expenses" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and

seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6~~. The transferred assets and assumed liabilities transferred under the Mitchell Interest Purchase Agreement shall be consistent with the scope of those items set forth in the Asset Contribution Agreement (and related indemnity agreements) between AEP Generation Resources Inc. and WPCo (as successor by merger to Newco Wheeling Inc.), dated January 31, 2015, the form of which was approved by the WVPSC in WVPSC Case No. 14-0546-E-PC.~~[3] and on a non-recourse basis to the seller.

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

[3] ~~Note to Purchaser: Parties to discuss.~~

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with AFUDC).[4]

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the West Virginia Public Service Commission.

[*Signature pages follow*.]

[4] ~~Note to Purchaser: Added for clarity and for consistency with regulatory treatment of compounding on AFUDC.~~

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:38:45 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\6. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-21-2021].DOCX
Description	6. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-21-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\7. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-22-2021].DOCX
Description	7. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-22-2021]
Rendering set	Standard

Legend:	
Insertion	
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Format change	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved from	0

Moved to	0
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Format changes	0
Total changes	52

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG ~~Expenses~~Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG ~~Expenses~~Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG ~~Expenses~~Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, ~~any dispute with respect to the determination of ELG Expenses~~the Operating Committee shall ~~be~~engage or retain a Technical ~~Dispute~~Expert to make recommendations with respect to determining which capital

expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $~~1~~3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including ~~the equitable allocation of any ELG Expense not fully allocated to WPCo~~determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners

shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the

required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG ~~Expenses~~Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any

other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31,

2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement[1] following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

[1] ~~Note to Purchaser: The O&M Agreement already contains a Late Payment Rate. Any other agreements between the parties should stand alone as to whether or not interest is charged.~~

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any

such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto, including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG ~~Expenses~~Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.[2]

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be

[2] ~~Note to Purchaser: Deleted proviso now duplicative of the definition of Adjusted Fair Market Value.~~

permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG ~~Expenses~~Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected

under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to ~~the seller~~KPCo, subject to an indemnity by KPCo for the benefit of WPCo, with a cap of $15 million, for liabilities arising from items not estimated in the calculation of Fair Market Value or the Decommissioning Costs Amounts.

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to

the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the ~~West Virginia~~ Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:40:10 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\7. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-22-2021].DOCX
Description	7. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-22-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\8. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021].DOCX
Description	8. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021]
Rendering set	Standard

Legend:	
Insertion	
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Style change	
Format change	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Deletions	29
Moved from	0

Moved to	0
Style changes	0
Format changes	0
Total changes	63

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, the Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to determining

which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be

assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the

representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]_____
[_____]_____

Attn: _____

Phone: [_____]_____

Email: [_____]_____

WHEELING POWER COMPANY
[_____]_____
[_____]_____
Attn: _____

Phone: [_____]_____

Email: [_____]_____

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of

dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto,

including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to

the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule as required to operate the Mitchell Plant through December 31, 2028.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning

plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an

arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to KPCo, subject to an indemnity expiring on December 31, 2050 by KPCo for the benefit of WPCo, with a cap of $15 million, for unknown contingent liabilities arising from items arising from KPCo's 50% Ownership Interest prior to the date of the closing of the Buyout Transaction and not estimated or otherwise factored in the calculation of Fair Market Value or the Decommissioning Costs Amounts.

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii) during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[Attached.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:41:00 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\8. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021].DOCX
Description	8. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\9. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-25-2021].DOCX
Description	9. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-25-2021]
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Moved to	0
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Format changes	0
Total changes	6

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, the Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to determining

which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be

assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the

representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of

dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto,

including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to

the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule ~~as required to operate the Mitchell Plant through December 31, 2028~~.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning

plans and the preparation, submittal and prosecution of all necessary applications with Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an

arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to KPCo, subject to an indemnity expiring on December 31, 2050 by KPCo for the benefit of WPCo, with a cap of $15 million, for unknown contingent liabilities ~~arising from~~with respect to items arising from KPCo's 50% Ownership Interest prior to the date of the closing of the Buyout Transaction and not estimated or otherwise factored in the calculation of Fair Market Value or the Decommissioning Costs ~~Amounts~~Amount. [1]

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

[redacted]

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii)

during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[To Be Attached as of the Effective Date.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:42:10 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\9. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-25-2021].DOCX
Description	9. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-25-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\10. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021].DOCX
Description	10. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021]
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Statistics:	
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Moved to	0
Style changes	0
Format changes	0
Total changes	29

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, the Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to determining

which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be

assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the

representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]_____
[_____]_____

Attn: _____

Phone: [_____]_____

Email: [_____]_____

WHEELING POWER COMPANY
[_____]_____
[_____]_____
Attn: _____

Phone: [_____]_____

Email: [_____]_____

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of

dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto,

including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to

the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with

Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and

seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to KPCo, subject to an indemnity expiring on December 31, 2050 by KPCo for the benefit of WPCo, with a cap of $15 million, for unknown contingent liabilities with respect to items arising from KPCo's 50% Ownership Interest prior to the date of the closing of the Buyout Transaction and not estimated or otherwise factored in the calculation of Fair Market Value or the Decommissioning Costs Amount.[1]

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

[redacted]

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii)

during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[To Be Attached as of the Effective Date.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:42:39 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\10. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021].DOCX
Description	10. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-25-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\11. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-26-2021].DOCX
Description	11. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-26-2021]
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Legend:	
Insertion	
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Format change	
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Moved cell	
Split/Merged cell	
Padding cell	

Statistics:	
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Moved to	0
Style changes	0
Format changes	0
Total changes	1

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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Page

THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, the Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to determining

which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be

assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the

representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of

dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto,

including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to

the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with

Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and

seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to KPCo, subject to an indemnity expiring on December 31, 2050 by KPCo for the benefit of WPCo, with a cap of $15 million, for unknown contingent liabilities with respect to items arising from KPCo's 50% Ownership Interest prior to the date of the closing of the Buyout Transaction and not estimated or otherwise factored in the calculation of Fair Market Value or the Decommissioning Costs Amount.[1]

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

[redacted]

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii)

during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[To Be Attached as of the Effective Date.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:43:09 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\11. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-26-2021].DOCX
Description	11. Project Nickel - Mitchell Plant Ownership Agreement [Liberty Draft 10-26-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\12. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-26-2021].DOCX
Description	12. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-26-2021]
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Format changes	0
Total changes	20

[RATE SCHEDULE NO. 303]

MITCHELL PLANT OWNERSHIP AGREEMENT

KENTUCKY POWER COMPANY

and

WHEELING POWER COMPANY

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THIS MITCHELL PLANT OWNERSHIP AGREEMENT (this "Agreement"), with an effective date of [_____] (the "Effective Date"), is by and among Kentucky Power Company, a Kentucky corporation qualified as a foreign corporation in West Virginia ("KPCo"); Wheeling Power Company, a West Virginia corporation ("WPCo") (such parties hereinafter sometimes referred to as an "Owner" and together the "Owners"); and, solely with respect to Section 13.4, American Electric Power Service Corporation, a New York corporation ("AEPSC").

WITNESSETH:

WHEREAS, KPCo and WPCo, as of the date hereof, each own a fifty percent (50%) undivided ownership interest in the Mitchell Power Generation Facility (each such percentage interest, an Owner's "Ownership Interest"), which consists of two coal-fired generating units (each, a "Unit"), with each Unit having a nominal nameplate capacity of 800 MW, located in Moundsville, West Virginia (as further defined herein, the "Mitchell Plant");

WHEREAS, KPCo, WPCo and AEPSC are parties to that certain Mitchell Plant Operating Agreement, dated as of December 31, 2014 (the "Original Operating Agreement");

WHEREAS, the Original Operating Agreement sets forth certain rights and obligations of the Owners and AEPSC with respect to the Mitchell Plant and the Owners' ownership thereof;

WHEREAS, pursuant to the Original Operating Agreement, KPCo is responsible for the day-to-day operations and maintenance of the Mitchell Plant;

WHEREAS, the Owners and AEPSC desire to replace the Original Operating Agreement to set forth the rights and obligations of the Owners with respect to the Mitchell Plant and their ownership thereof and to remove AEPSC as a party thereto;

WHEREAS, in connection with the execution of this Agreement, the Owners desire to execute a separate operations and management agreement to provide for the day-to-day operation and maintenance responsibilities in respect of the Mitchell Plant (as may be amended from time to time the "O&M Agreement");

WHEREAS, the Owners have agreed that, subject to the terms and conditions of the O&M Agreement, on and after the Effective Date WPCo shall replace KPCo as the operator of the Mitchell Plant (the "Operator"); and

WHEREAS, on and subject to the terms and conditions of this Agreement, the Owners have committed to undertake a Buyout Transaction (as hereinafter defined), pursuant to which WPCo shall purchase KPCo's Ownership Interest on or prior to December 31, 2028, unless an Early Retirement Event (as hereinafter defined) occurs.

NOW THEREFORE, in consideration of the premises and for the purposes hereinabove recited, and in consideration of the mutual covenants hereinafter contained, the signatories hereto agree as follows:

ARTICLE ONE
OWNERSHIP AND OPERATIONS

1.1 To the greatest extent permitted by Applicable Law, the Mitchell Plant and all assets (tangible and intangible) and property (real and personal) owned, leased, held, developed, constructed or acquired solely for or in connection with the Mitchell Plant or the operation, maintenance or Decommissioning of the Mitchell Plant by or on behalf of an Owner or the Owners (together, the "Project Assets") shall be owned and held and deemed to be owned and held by the Owners as tenants in common in proportion to their respective Ownership Interests (except for any capital items owned in a different proportion in accordance with Section 1.8) or, in the event any Project Asset cannot be held directly by both of the Owners due to, inter alia, any pre-existing legal or contractual restrictions that cannot be altered or satisfied or where effectuating such ownership structure would result in unreasonable additional expense to the Owners, by the Operator as trustee for the Owners as tenants in common in proportion to their respective Ownership Interest. If the ownership of any Project Asset is registered or recorded in the name of one of the Owners, and notwithstanding the Owners' efforts such Project Asset cannot be held directly by both Owners as contemplated above, then such Owner in whose name ownership is registered or recorded shall hold such Project Asset in trust for itself and the other Owner in proportion to their respective Ownership Interests and, to the extent necessary or requested by the Operator or other Owner, make such Project Assets (or the benefits thereof) available for the use and benefit of the Owners (in proportion with their respective Ownership Interests), including, to the extent consistent with the foregoing, by such Owner subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Operator to administer such Project Assets.

1.2 At the request of either Owner, and in accordance with Section 1.1, each Owner and the Operator shall execute all documents and do all things necessary or appropriate to register or record the Project Assets in the names of the Owners in proportion to their respective Ownership Interests (or such different proportion as any capital item may be owned in accordance with Section 1.8).

1.3 All assets (tangible and intangible) and property (real and personal) held, developed, constructed or acquired by or on behalf of the Operator for or on behalf of the Owners jointly, or any of them, shall constitute "Project Assets" subject to the ownership of both Owners as set forth in Sections 1.1 and 1.2. Except as otherwise agreed by the Owners, the Operator shall not have any right, title or interest in or to any such assets, or in or to any money paid to, collected or received by the Operator for or on behalf of either Owner, except as the agent or representative of, or for the use and benefit of, such Owners as set forth in this Agreement and in proportion to each Owner's respective Ownership Interest.

1.4 Each Owner hereby waives any rights it may have at law or equity to bring an action for partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, and agrees that it shall not (a) seek partition or division of the Mitchell Plant or any Project Asset or any contracts related thereto, or (b) take any action, whether by way of any court order or otherwise, for physical partition or judicial sale in lieu of partition of the Mitchell Plant or any Project Asset or any contracts related thereto. Nothing in this Section 1.4 shall affect the

right of either Owner to dispatch its respective share of the Total Net Capability under Article Two or to Dispose of its Ownership Interest in accordance with Article Nine.

1.5 On and after the Effective Date, WPCo shall be the Operator responsible for the day-to-day operations and maintenance of the Mitchell Plant and shall operate, maintain and Decommission the Mitchell Plant for the sole benefit (and on behalf) of the Owners and in accordance with the terms and conditions of this Agreement and the O&M Agreement. KPCo agrees to take all actions reasonably necessary to facilitate WPCo's operation, maintenance and Decommissioning of the Mitchell Plant pursuant to the terms of the O&M Agreement, including providing or permitting reasonable access to the Mitchell Plant to third party contractors and other contract counterparties of each Owner or the Operator with respect to the administration, implementation and satisfaction of such contracts or agreements executed or assumed by the Operator on behalf of either Owner relating to the Mitchell Plant, including all Facility Agreements (as defined in the O&M Agreement).

1.6 The Owners shall establish and maintain such bank accounts as may from time to time be required or appropriate for paying the costs and expenses, including capital expenditures, in respect of the ownership, operation, maintenance and Decommissioning of the Mitchell Plant. The Owners shall designate only the Operator, and its representatives as reasonably requested by the Operator, as authorized signatories to such bank accounts. All withdrawals made by the Operator (or its representatives) from such bank accounts shall be made only in connection with the performance of the Operator's obligations set forth in this Agreement and the O&M Agreement.

1.7 The initial capital budget for the period from the Effective Date through December 31, 2028 (including agreed allocations of costs for capital projects between the Owners) (the "Capital Budget"), the initial annual operating budget and the initial forecast of operating and capital costs to be incurred for the period from the Effective Date through December 31, 2028 are attached hereto as Exhibit A.

1.8 Notwithstanding the provisions of this Article One, to the extent that either Owner funds or bears an amount greater than 50% of any capital expenditures or ELG Capital Expenditures as contemplated in the Capital Budget or this Agreement, the directly resulting portion of any property, plant and equipment, or improvements thereto shall be owned by the Owners in proportion to their respective amounts funded and shall be included only in such proportion in each Owner's ownership accounts for regulatory, accounting, tax and other purposes.

ARTICLE TWO
APPORTIONMENT OF CAPACITY AND ENERGY

2.1 The total net capability of the Mitchell Plant at low-voltage busses of the Units, after taking into account auxiliary load demand, is 1,560,000 kilowatts (the "Total Net Capability") as of the Effective Date. The Owners may from time to time modify the Total Net Capability of the Mitchell Plant as they may mutually agree.

2.2 The total net generation of the Mitchell Plant during a given period, as determined by the requirements of each Owner, shall mean the electrical output of the Mitchell Plant generators during such period, measured in kilowatt hours by suitable instruments, reduced by the energy used by auxiliaries for each Unit during such period (the "Total Net Generation").

2.3 Each Owner shall be entitled to receive 50% of the Total Net Capability and the Total Net Generation (with respect to each Owner, such Owner's "Assigned Capacity"), and all associated energy, capacity, ancillary services and other energy products, in accordance with this Agreement.

2.4 Except as may be determined by the Operating Committee in accordance with Section 7.6, in any hour, each Owner shall share 50% of the minimum load responsibility of each Unit.

2.5 In any hour during which any Unit is out of service, the Owners shall bear equally the cost of energy used by the out-of-service Unit's auxiliaries during such hour, which may be provided by the applicable local utility Affiliate of an Owner. Alternatively, the Owners may mutually agree in writing to each provide 50% of such energy.

ARTICLE THREE
REPLACEMENTS, ADDITIONS, AND RETIREMENTS

3.1 The Owners shall take all actions within their respective control to cause the Operator, pursuant to the O&M Agreement, from time to time to make or cause to be made any necessary or appropriate additions to, replacements of, and retirements of, capitalizable facilities associated with the Mitchell Plant in accordance with the Capital Budget and the O&M Agreement or as may otherwise be mutually agreed upon by the Owners.

3.2 In the event that, prior to execution and delivery of the Mitchell Interest Purchase Agreement, an Early Retirement Event occurs, each Owner shall (a) cause each Unit to permanently cease operations on December 31, 2028, or such other date permitted by Applicable Law as the Operating Committee may determine, (b) be responsible for, and shall timely pay, 50% of all Decommissioning Costs, (c) cooperate in good faith and take all actions reasonably necessary to facilitate the Decommissioning Work, including negotiating in good faith any contracts or agreements (including liability transfer arrangements) on behalf of either Owner or Operator, including transfers, conveyances or assignments of Facility Equipment (as defined in the O&M Agreement), as reasonably requested by either Owner or Operator to facilitate Decommissioning and (d) take, and/or instruct the Operator pursuant to the O&M Agreement to take, such actions, at the sole cost and expense of WPCo, to continue operating and maintaining the barge loading facilities and gypsum conveyor system at the Mitchell Plant and providing use of such facilities and system to the applicable contract counterparty and its representatives in accordance with, and until the expiration or earlier termination of, the CertainTeed Contract.

ARTICLE FOUR
WORKING CAPITAL REQUIREMENTS

4.1 The Owners shall periodically mutually determine the amount, timing and invoicing processes for funds required for use as working capital, for operating, capital and

other expenses incurred in the operation, maintenance and Decommissioning (including the Decommissioning Costs) of the Mitchell Plant, and in buying equipment, materials, parts, fuel and other supplies and services necessary to operate, maintain and Decommission the Mitchell Plant and to make the timely payments of any expenses required under the O&M Agreement.

4.2 Each Owner shall, in accordance with the timing set forth in a determination made pursuant to Section 4.1, promptly provide 50% of any such amount required by the Owners pursuant to Section 4.1, except as otherwise provided for in Section 6.7.

4.3 Each Owner agrees that if such Owner fails at any time during the Term to satisfy the Ratings Requirement, it will, within thirty (30) days of such failure, provide in favor of the other Owner and maintain credit support in the form of (a) a cash deposit, (b) a guaranty issued by an Affiliate of such Owner that satisfies the Ratings Requirement in form and substance reasonably acceptable to the other Owner or (c) a letter of credit in form and substance reasonably acceptable to other Owner, issued by a commercial bank or other financial institution with a Credit Rating of at least "A-" by S&P Global Ratings, or any successor thereto ("S&P") or at least "A3" by Moody's Investors Service, Inc., or any successor thereto ("Moody's"), and in an amount equal to (i) one-half ($^1/_2$) of the then-applicable annual operating budget for the Mitchell Plant established pursuant to Section 7.2 from time to time, plus (ii) the sum of such Owner's allocated amount of capital expenditures for such year contained in the then-applicable Capital Budget, plus (iii) an amount equal to the latest estimate of Decommissioning Costs prepared by the Operator, determined on a net present value basis using a discount rate equal to the WACC as of the date of determination. Such credit support posted in favor of an Owner shall be promptly returned within thirty (30) days of the other Owner furnishing written evidence demonstrating that it satisfies the Ratings Requirement.

4.4 The Operator shall provide such credit support, including guarantees, cash deposits, letters of credit or other forms of credit support, to third parties (including contractual counterparties and Governmental Authorities) as required for the Owners' ownership, operation, maintenance and Decommissioning of the Mitchell Plant. To the extent that the Operator is required to provide such credit support to a third party in connection with any activity performed in respect of the Mitchell Plant under this Agreement (including the procurement of fuel as described in Section 5.1), the Owners shall share the reasonable and documented out-of-pocket cost of the third-party credit support incurred by the Operator (including of any credit support furnished by an Affiliate of the Operator) in accordance with their respective Ownership Interests.

ARTICLE FIVE
INVESTMENT IN FUEL

5.1 The Operator shall procure, establish and maintain reserves of coal in common stock piles for the Mitchell Plant of such quality and in such quantities as the Operating Committee shall determine to be required to provide adequate fuel reserves against interruptions of normal fuel supply and as is necessary to maintain the number of tons in such coal stock piles, after taking into account the coal consumption from such coal stock piles by each Unit during each month. For purposes of this Agreement, "consumables" shall be as defined in account 502

of the Uniform System of Accounts administered by the Federal Energy Regulatory Commission ("FERC").

5.2 The quality of any coal or consumable product provided by the Operator must be reasonably acceptable to both Owners. Any coal being utilized shall be deemed to be acceptable to the Owners if it meets the following requirements: (a) coal previously utilized at the Mitchell Plant with satisfactory operating performance shall be considered acceptable for use in the Mitchell Plant, unless deemed unacceptable due to a required change of the engineering specifications making the coal no longer viable; (b) coal from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily in the Mitchell Plant and is mutually acceptable to each Owner; or (c) as otherwise mutually agreed to by each Owner. Consumables from any new seam or source shall be acceptable if such supply is shown to perform satisfactorily to both Owners in the Mitchell Plant and conform to the then current engineering specifications for the Mitchell Plant or as otherwise mutually agreed by each Owner.

5.3 Each Owner shall be responsible for, and own, 50% of the investment in the common coal stock piles.

5.4 Fuel oil and consumables charged to operation for the Mitchell Plant shall be owned and accounted for between the Owners in the same manner as coal.

ARTICLE SIX
APPORTIONMENT OF STATION COSTS

6.1 The allocation to the Owners of fuel expense associated with each Unit shall be determined by the Operating Committee as follows:

(a) In any calendar month, the average unit cost of coal available for consumption from the Mitchell Plant common coal stock piles shall be determined based on the prior month's ending inventory dollar and ton balances plus current month receipts delivered to the Mitchell Plant common coal stock piles. Each Owner's average unit-cost will be the same, and receipts and inventory available for consumption amounts will be allocated to each Owner based on monthly usage.

(b) The number of tons of coal consumed by the Mitchell Plant in each calendar month from the Mitchell Plant common coal stock piles shall be determined and shall be converted into a dollar amount equal to the product of (i) the average cost per ton of coal associated with the Mitchell Plant in the Mitchell Plant common coal stock pile at the close of such month, and (ii) the number of tons of coal consumed by the Mitchell Plant from the Mitchell Plant common coal stock piles during such month. Such dollar amount shall be credited to the Mitchell Plant fuel in the stock pile and charged to the Mitchell Plant fuel consumed.

(c) In each calendar month, each Owner's respective shares of the Mitchell Plant fuel consumed expense as determined by the provisions of Section 6.1(b) shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(d) Fuel oil reserves will be owned and accounted for in the same manner as coal stock piles, and fuel oil consumed will be allocated to the Owners in the same manner as coal consumed.

6.2 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all of the Mitchell Plant's operations expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.3 For each calendar month, the Operator will, to the extent practicable and in accordance with the O&M Agreement, determine all the Mitchell Plant's maintenance expenses and associated overheads, as accounted for under the FERC Uniform System of Accounts.

6.4 In each calendar month, each Owner's respective shares of operations and maintenance expenses associated with the Mitchell Plant, as determined in accordance with this Article Six, shall be allocated as follows:

(a) Each Owner's respective share of the Mitchell Plant steam expenses as recorded in FERC Account 502, and emission tons, with allowance expenses as recorded in FERC Account 509, shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

(b) In each calendar month, the maintenance of boiler plant expenses as recorded in FERC Account 512, and maintenance of electric plant expenses as recorded in FERC Account 513, shall be directly assigned to each Unit or designated as a common expense attributable to both Units. In each calendar month, each Owner's respective share of these expenses shall be proportionate to each Owner's dispatch of the applicable Unit, or both Units in the case of common expenses, over the previous sixty (60) calendar months.

(c) In each calendar month, each Owner shall be responsible for 50% of all other Steam Power Generation Expenses (FERC Accounts 500 - 515) not addressed in Section 6.4(a) and Section 6.4(b). Administrative and General Expenses (FERC Accounts 920 – 935) shall be assigned to the Mitchell Plant through an annual wages and salaries allocator applied to monthly Administrative & General Expenses. Each Owner shall be responsible for 50% of this monthly amount; provided, however, that, for the avoidance of doubt, each Owner shall be individually responsible for any fees, costs or other charges, including but not limited to those imposed by PJM Interconnection, L.L.C. ("PJM") or any regional transmission operator or any other Governmental Authority in respect of, or which are attributable to, the sale or transmission of the capacity or energy associated with its Ownership Interest, as the case may be.

(d) Notwithstanding the foregoing clauses (a) through (c) or anything else in this Agreement or the O&M Agreement to the contrary, in each calendar month, any operations and maintenance or other expenses to the extent attributable to any ELG Upgrade (regardless of the FERC Account to which it is charged) shall be allocated exclusively to and paid by WPCo.

(e) In each calendar month, each Owner's respective share of Construction Work In Progress charged to FERC Account 107 shall be allocated on the same basis as capital expenditures, as set forth in Section 6.7.

(f) In each calendar month, the net change in Mitchell Plant storeroom inventory (inventory purchases less issuances of inventory) charged to FERC Account 154 shall be allocated 50% to each Owner.

(g) Each Owner shall be charged 50% of Operating Costs, as defined in and in accordance with Section 7.2 of the O&M Agreement, except to the extent a different allocation for specific FERC Accounts or otherwise is specified in this Article Six.

6.5 All taxes, duties or assessments levied against or with respect to each Owner's Ownership Interest, or an Owner's purchase, use, ownership or beneficial interest in, or income from, the Mitchell Plant shall be the sole responsibility of, and shall be paid by, the Owner upon whose purchase, use, ownership interest or beneficial interest or income said taxes or assessments are levied. Without limiting the foregoing, in each calendar month, each Owner's respective share of Employee Payroll Taxes charged to FERC Account 408 shall be 50%.

6.6 Notwithstanding any other provision of this Agreement or any other agreement to the contrary, each Owner hereby acknowledges and agrees that (a) each Owner prior to the Effective Date has treated, and subsequent to such date shall continue to treat, the co-ownership and operation of the Mitchell Plant as excluded from Subchapter K of the Internal Revenue Code of 1986, as amended (the "Tax Code"), pursuant to Section 761(a) thereof, for all federal, state and local income tax purposes, (b) each Owner prior to the Effective Date affirmatively elected not to apply any of the provisions of Subchapter K of the Tax Code to such Owner's interest in the Mitchell Plant, with such election having been formally filed in connection with the Owners' applicable income tax returns for the taxable year ending on December 31, 2020 and each Owner has taken all actions necessary to implement such election and (c) each Owner prior to the Effective Date has reported, and subsequent to such date shall report, its share of all income, gains, deductions, losses, credits, etc. from its Ownership Interest on its tax returns consistent with such exclusion from the provisions of Subchapter K of the Tax Code.

6.7 Subject to clauses (b) and (c) below the cost of any replacement, addition, improvement or upgrade of each Unit or any portion of the Mitchell Plant, and any restoration or remediation required in connection therewith, shall be allocated between the Owners in accordance with the allocations for such capital items contained in the Capital Budget. With respect to any such capital item not contained in the Capital Budget, the costs of such capital item shall be allocated as follows, unless the Operating Committee agrees upon a different allocation:

(a) Capital expenditures (other than ELG Capital Expenditures) that the Operating Committee determines have been or will be incurred exclusively for one Owner shall be allocated exclusively to, and paid for by, that Owner.

(b) Notwithstanding anything to the contrary herein, ELG Capital Expenditures shall be allocated exclusively to, and paid for exclusively by, WPCo (subject to adjustment of the Buyout Price in accordance with Section 9.6) and CCR Capital Expenditures shall be allocated 50% to (and paid for by) each Owner; provided, that, the Operating Committee shall engage or retain a Technical Expert to make recommendations with respect to determining

which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures.

(c) Notwithstanding anything to the contrary herein, if the in-service date of a capital item is reasonably anticipated by the Operating Committee to be after December 31, 2028, then the capital expenditures for such capital item shall be allocated exclusively to, and paid for by, WPCo.

(d) If the Operating Committee determines, including based on Depreciable Lives of similar assets previously approved by applicable Governmental Authorities, that a capital item (other than an ELG Upgrade) has a Depreciable Life that extends beyond December 31, 2028, then (i) KPCo shall be responsible for and shall pay 50% of the expenditures for such capital item, multiplied by (A) the number of months (not to exceed the Depreciable Life of such capital item) between the reasonably anticipated in-service date of such capital item and December 31, 2028, divided by (B) the Depreciable Life of such capital item and (ii) WPCo shall be responsible for the remaining amount of such capital expenditure not allocated to KPCo pursuant to the foregoing clause (i).

(e) Any other capital expenditures shall be allocated 50% to (and paid for by) each Owner, subject to the written approval of the Operating Committee for budget overruns to the extent required pursuant to Section 5.3.2 of the O&M Agreement.

6.8 In the event of an Early Retirement Event, each Owner shall be responsible for 50% of all Decommissioning Costs, unless a different allocation is expressly specified for such item in the Capital Budget (as agreed by the Owners) or the Owners mutually agree to allocate such costs in another manner; provided that nothing in this Section 6.8 shall affect the inclusion of Decommissioning Costs in the calculation of the Buyout Price pursuant to Section 9.6.

6.9 Notwithstanding anything contained in this Agreement, an Owner's obligation to pay its obligations under this Agreement shall not in any way be conditioned upon or affected by any regulatory order or other determination disallowing, limiting or deferring rate recovery of the costs and expenses paid or payable by an Owner in respect of its Ownership Interest.

ARTICLE SEVEN
OPERATING COMMITTEE AND OPERATIONS

7.1 By written notice to each other, each Owner shall name one representative (the "Operating Representative") and one alternate to act for it in matters pertaining to operating arrangements under this Agreement and the O&M Agreement. An Owner may change its Operating Representative or alternate at any time by written notice to the other Owner. The Operating Representatives for the respective Owners, or their alternates, shall comprise the "Operating Committee". All decisions, directives, or other actions by the Operating Committee must be by unanimous agreement of the Operating Representatives of the Owners. If the Operating Representatives are unable to agree on any matter, such matter will be resolved through the dispute resolution procedures set forth in Article Twelve.

7.2 The Operating Committee shall have the following responsibilities, which decisions are reserved exclusively for the Operating Committee and may not be made individually by the Operator or any Owner:

(a) Review and approval of any amendments to the Capital Budget, and adoption of an annual operating budget, annual operating plan and a six-year forecast of operating and capital expenses, each as delivered to the Operating Committee by the Operator pursuant to Section 7.8, including determination of the emission allowances required to be acquired by each Owner with respect to their Ownership Interests; provided, that an Owner's Operating Representative shall have the right to amend the Capital Budget solely to include any capital expenditures for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7, up to an aggregate amount of such capital expenditures that does not exceed $3 million per year allocated to the other Owner. Allocations of new capital expenditures added to the Capital Budget shall be consistent with Section 6.7; provided, that if the Operating Committee cannot agree upon the Depreciable Life of a capital item or the allocation of a capital expenditure between the Owners (including determining which capital expenditures are ELG Capital Expenditures and which capital expenditures are CCR Capital Expenditures), the matter shall be resolved in accordance with the Technical Dispute resolution procedures set forth in Section 12.1 and Section 12.3 and the Owners shall implement any resolution of the Technical Dispute through adjustments or true-up payments, as appropriate. If the Operating Committee fails to adopt an annual operating budget, the approved annual operating budget from the previous year (other than one-time or other non-recurring or inapplicable items) shall apply until such time as the new annual operating budget is approved.

(b) Establishment, modification and review of procedures, guidelines and systems for scheduling and dispatch, notification of dispatch, and Unit commitment under this Agreement, including any Unit-commitment pursuant to Section 7.5 or Section 7.6.

(c) Establishment and monitoring of procedures for communication and coordination with respect to the Mitchell Plant capacity availability, fuel-firing options, and scheduling of outages for maintenance, repairs, equipment replacements, scheduled inspections, and other foreseeable cause of outages at the Mitchell Plant, as well as the return the Mitchell Plant to availability following an unplanned outage. The Operating Committee shall use commercially reasonable efforts, consistent with Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), to schedule the implementation of ELG Upgrades during planned maintenance and repair outages so as to eliminate or minimize incremental outages.

(d) To the extent not included in the Capital Budget, decisions on capital projects, including Unit upgrades and re-powering, except that an Owner's Operating Representative shall have the right to approve any such capital projects for which such Owner shall be allocated greater than 75% of the costs pursuant to Section 6.7 and Section 7.2(a).

(e) Determinations as to allocations between the Owners of expenses pursuant to Section 6.1.

(f) Determinations as to changes in the Unit capability.

(g) Establishment and modification of billing procedures under this Agreement or under the O&M Agreement.

(h) Approval of material contracts for fuel supply or transportation.

(i) Establishment and modification of specifications of fuels; oversight of fuel procurement, inspection and certification arrangements, policies and procedures; and management of fuel inventories for the Mitchell Plant.

(j) Establishment of, termination of, and approval of any change or amendment to the operating arrangements (including the O&M Agreement) between the Owners and the Operator (or any successor Operator or replacement third-party Operator) and selection of any replacement Operator, except as otherwise permitted by Section 7.9.

(k) Review and approval of plans and procedures designed to ensure compliance at the Mitchell Plant with all Applicable Law, including procedures for allocating and using emission allowances or for any programs that permit averaging at more than one Unit for compliance.

(l) Amendment, termination, extension or modification of the O&M Agreement, and supervision of the performance of, and provision of direction as needed to, the Operator.

(m) Decisions regarding the retirement, permanent removal from service or Decommissioning of a Unit or any material portion of the Mitchell Plant and any restoration or remediation required in connection therewith.

(n) Establishment of an insurance program to provide property and general liability insurance on behalf of each Owner, to be procured by the Operator pursuant to the O&M Agreement.

(o) Other duties as assigned by agreement of the Owners.

7.3 The Operating Committee shall meet at least quarterly, or at such other frequency as determined by the Operating Committee, and at such other times as an Owner may reasonably request. The Operator shall provide operations reports to the Operating Committee each month (presented on a monthly basis) and each quarter (presented on a quarterly basis) substantially in the form of Exhibit B hereto.

7.4 The Owners and the Operator shall cooperate in providing to the Operating Committee the information it reasonably needs to carry out its duties, and to supplement or correct such information on a timely basis.

7.5 Subject to Section 7.6, each Unit shall be scheduled and dispatched on a joint and equal basis by the Owners, including bidding the Mitchell Plant or any Unit as a single bid, consistent with procedures and guidelines established by the Operating Committee. The Owners shall make an initial Unit-commitment one business day ahead of real-time dispatch, or on such other timetable as the Operating Committee may determine. In each calendar month, each

Owner's respective shares of the Emissions Allowances consumed as determined in accordance with the provisions of Section 7.7 shall be proportionate to each Owner's dispatch of the Mitchell Plant in such month.

7.6 In the event an Owner desires to separately schedule and dispatch any Unit, subject to the receipt of any necessary regulatory approvals or waivers, the Operating Committee shall establish and implement procedures and systems for separate scheduling and dispatch by each Owner, consistent with all of the requirements of any Person or regional transmission organization, such as PJM, supervising the collective transmission or generation facilities of the power region in which the Mitchell Plant is located that is charged with coordination of market transactions, system-wide transmission planning and network reliability and shall allocate costs and responsibilities in respect of any such separate dispatch (including with respect to Emission Allowances) consistent with such separate dispatch.

7.7 Emission Allowances. Prior to the earlier of any Buyout Transaction or December 31, 2028 (or earlier retirement of the Facility), to the extent that emission allowances issued by the U.S. Environmental Protection Agency ("USEPA") pursuant to Title IV of the Clean Air Act Amendments of 1990 and any regulations thereunder, and any other emission allowance trading program created under the Clean Air Act and administered by USEPA or the State of West Virginia, including but not limited to the Cross-State Air Pollution Rule 40 C.F.R. Part 97, and any amendments thereto (the "Emission Allowances"), are required for operation of the Mitchell Plant, each Owner will be entitled to receive for its own benefit 50% of any Emissions Allowances allocated to the Mitchell Plant. Each Owner will be responsible for acquiring any additional Emission Allowances needed to satisfy the Emission Allowances required because of such Owner's dispatch of energy from the Mitchell Plant. Additionally, prior to such time, each Owner will be responsible for acquiring the Emission Allowances required, to the extent necessary in addition to its share of the Emissions Allowances allocated to the Mitchell Plant, to satisfy 50% of the Emission Allowance surrender obligations attributable to the Mitchell Plant imposed under the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al*., Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al., Civil Action No. C2-05-360 and Ohio Citizen Action, et al. v. American Electric Power Service Corp.*, Civil Action No. C2-04-1098 dated December 10, 2007 as subsequently modified or amended, it being understood that the Owners may be subject to additional rights and obligations under any applicable agreement among the Owners (and/or their Affiliates) and American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant. As early as possible, but no later than three business days after the deadline for submitting final electronic data to the EPA for compliance purposes, the Operator shall notify each Owner of the number of annual or seasonal Emission Allowances that are needed to offset each Owner's share of emissions for the previous year or season. Each Owner shall supply its respective share of allowances, with a reasonable compliance margin as determined by the Operating Committee, by transferring the applicable allowances to the Mitchell Plant's Allowance Facility Account on or before 15 days prior to the remittance date. In the event that an Owner fails to surrender the required number of Emission Allowances in accordance with the prior paragraph, the other Owner shall have the option to purchase the required number of Emission Allowances, and the Owner that failed to surrender the required number of Emission Allowances shall reimburse the other Owner for any amounts it shall have

incurred to make such purchases, with interest at the "Federal Funds Rate" (as published by the Board of Governors of the Federal Reserve System as from time to time in effect) running from the date of such purchases to the date of payment. The Operating Committee will develop procedures to be implemented after the end of each calendar year to account for each Owner's share of the Emission Allowances required by the use of the Mitchell Plant and to correct any imbalance between the Emission Allowances supplied and the Emission Allowances used through the end of the preceding year by settlement or payment.

7.8 At least ninety (90) days before the start of each operating year, the Operator shall submit to the Operating Committee any proposed amendments to the Capital Budget and an annual operating budget for such operating year with respect to the Mitchell Plant, a proposed annual operating plan with respect to the Mitchell Plant for such operating year, and a forecast of operating and capital costs to be incurred during the next six-year period. The annual operating budget and amendments to the Capital Budget shall be presented on a month-by-month basis, and shall include an operating budget, a capital budget, and an estimate of the cost of any major repairs or improvements that are anticipated to occur during the relevant period with respect to the Mitchell Plant, and an itemized estimate of all projected fixed and variable operating expenses relating to the operation of the Mitchell Plant during that operating year. The members of the Operating Committee will meet and work in good faith to agree upon the final annual operating budget, final annual operating plan and any amendments to the Capital Budget. Once approved, the annual operating budget and annual operating plan shall remain in effect throughout the applicable operating year, subject to such changes, revisions, amendments, and updating as the Operating Committee may determine. If an Early Retirement Event occurs, the members of the Operating Committee will meet and work in good faith to amend the Capital Budget to remove any future ELG Capital Expenditures and any other future capital expenditures no longer required, to the extent practicable and consistent with Applicable Law. The Capital Budget shall remain in effect throughout the Term, subject to such amendments as the Operating Committee may determine.

7.9 Notwithstanding anything in this Agreement to the contrary, (i) in the case of the O&M Agreement or any other agreement relating to the Mitchell Plant that is entered into jointly by or on behalf of the Owners, on one hand, with an Affiliate of an Owner (or with an Owner itself, as in the case of the O&M Agreement) on the other hand, the non-Affiliate Owner shall have the sole and exclusive right to exercise any and all affirmative or elective rights of the Owners, including remedies (including delivering notices of and pursuing or settling disputes or delivering notices of default or making and pursuing claims for indemnification) and any termination rights (including rights of termination for convenience, if any) thereunder (for the avoidance of doubt, without first obtaining the consent of the other Owner or the Operating Committee) and (ii) in the case the O&M Agreement is terminated pursuant to Section 8.2 thereof, KPCo shall have the sole and exclusive right to select and designate any successor "Operator" or replacement third-party Operator, in each case so long as such successor replacement is a "Qualified Replacement Operator" (as defined in the O&M Agreement); provided, however, that notice of any such action described in this Section 7.9 shall be sent to the other Owner at the time such action is taken if such other Owner is not the Operator. For purposes of this Agreement, "Affiliate" shall mean, with respect to any person or entity, any other person or entity that directly or indirectly, controls, is controlled by, or is under common control with such person or entity. As used in this definition, "control" (including, with its

correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise.

ARTICLE EIGHT
EFFECTIVE DATE AND TERM

8.1 This Agreement shall be effective as of the Effective Date.

8.2 Subject to FERC approval or acceptance of any termination, if necessary, this Agreement shall remain in force until the earlier of (a) the date on which this Agreement is terminated by mutual agreement of the Owners or (b) the consummation of the Buyout Transaction contemplated by Section 9.6 (the period from the Effective Date through such date, the "Term").

ARTICLE NINE
TRANSFERS

9.1 Neither Owner may assign, transfer or otherwise dispose of its Ownership Interest, either in whole or part, whether by sale, lease, division, declaration or creation of a trust, by operation of law or otherwise ("Dispose" or a "Disposition") to any person or entity (the "Proposed Purchaser") without the prior written consent of the other Owner (the "Non-Offering Owner" and the Owner proposing the Disposition, the "Offering Owner"), which consent may be granted or withheld in the Non-Offering Owner's sole discretion; provided, that, the foregoing shall not restrict the Owners from pursuing or consummating the Buyout Transaction. Notwithstanding the foregoing, either Owner may Dispose of, all (but not less than all) of its Ownership Interest to a state regulated utility Affiliate, provided that (i) the Disposition shall not relieve the Offering Owner of its obligations under this Agreement, (ii) the Disposition shall be made in compliance with the Consent Decree entered in *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-99-1182 and C2-99-1250 and *United States, et al. v. American Electric Power Service Corp., et al.*, Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto, as in effect as of the date of the Disposition, (iii) the Proposed Purchaser shall agree to and assume, in respect of the Ownership Interest subject to the Disposition, the rights and obligations of the Offering Owner and its Affiliates under any applicable agreement with American Electric Power Company, Inc. (and/or its Affiliates) pertaining to the allocation of emission limitations associated with the Mitchell Plant, and (iv) in the event the Offering Owner (or any Affiliate thereof) shall be the Operator, the Proposed Purchaser shall also have been assigned, and agreed to have assumed, the rights and obligations of the Operator under this Agreement and the O&M Agreement as of the effective date of such Disposition; provided, that in the case of this clause (iv), a written consent from the Non-Offering Owner (which consent shall not be unreasonably withheld, conditioned or delayed) shall be obtained prior to such Disposition to the extent such Disposition results in the change of the Operator.

9.2 No Disposition shall be made unless all requisite regulatory and other approvals, consents and authorizations from all Governmental Authorities that are required to be obtained

in connection with such Disposition have been obtained and as to which all conditions to the consummation of Disposition thereunder have been satisfied.

9.3 Subject to Section 9.6, all costs associated with any Disposition of an Ownership Interest by an Owner shall be borne solely by the Offering Owner, provided that the foregoing shall not limit the Offering Owner's right to seek reimbursement of any costs from the Proposed Purchaser in connection with any such Disposition.

9.4 Each Owner shall have the right to seek financing for all or a portion of such Owner's Ownership Interest and to provide general security for such financing of its Ownership Interest, including through the creation of any Encumbrance thereon (and the right of the beneficiary thereof to enforce thereon, but not to foreclose upon or transfer such Owner's Ownership Interest without the prior written consent of the other Owner), without the prior consent of the other Owner; provided that neither Owner may enter into any financing agreement or create any Encumbrance that would be reasonably likely to prohibit or otherwise restrict or condition the Buyout Transaction contemplated by Section 9.6. Each Owner further agrees to cooperate reasonably and in good faith, and to cause its Affiliates to so cooperate, with an Owner seeking financing in connection with such modifications and other rights and consents customary in transactions of such type, and not unreasonably to withhold its consent to such modifications as may be reasonably necessary or appropriate to allow such Owner to obtain such financing upon reasonably competitive terms, including obtaining consents to the assignment of such Owner's Ownership Interest in any of the Project Assets reasonably requested by such Owner's lender; provided that none of such proposed modifications shall (a) relieve the financing Owner of any of its obligations under this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset, (b) decrease the economic benefits, or increase the costs, of the ownership and operation of the Mitchell Plant to the other Owner, (c) create any increased economic or legal risk to the other Owner in connection with the ownership and operation of the Mitchell Plant, (d) permit or allow any Encumbrances relating to any such financing to be placed upon any portion of or interest in the Project Assets other than the financing Owner's Ownership Interest, (e) permit partition of the Project Assets or any of them, including any partition upon a default by the financing Owner under any of the relevant financing documents or (f) prohibit or otherwise restrict or condition the Buyout Transaction as contemplated by Section 9.6.

9.5 Notwithstanding anything else herein to the contrary, no Disposition shall constitute a release of the Offering Owner from any liabilities to the Non-Offering Owner or the Operator arising from events occurring prior to or in connection with the Disposition, except as may be set forth expressly in the Mitchell Interest Purchase Agreement.

9.6 Buyout Transaction. Unless an Early Retirement Event occurs, the Owners shall enter into the Mitchell Interest Purchase Agreement pursuant to which KPCo shall sell, transfer and assign to WPCo, and WPCo shall purchase and assume from KPCo, all of KPCo's Ownership Interest (the "KPCo Interest") (including its interest in the underlying land, common facilities, barge unloading and gypsum conveyor facilities, and inventory and spare parts with respect to the Mitchell Plant), with the closing of such transaction to occur on December 31, 2028 (or such earlier date as may be mutually agreed by the Owners), subject to and in

accordance with the provisions of this Section 9.6. The transactions contemplated by this Section 9.6 shall be referred to herein collectively as the "Buyout Transaction."

(a) Buyout Price. The purchase price for the KPCo Interest shall be (i) an amount mutually agreed by the Owners and approved by each of the WVPSC and the KPSC or, (ii) if no such amount is agreed by the Owners prior to June 30, 2027, an amount equal to (A) the Adjusted Fair Market Value of the KPCo Interest as of the closing date of the consummation of the Buyout Transaction, minus (B) the Decommissioning Costs Amount, plus (C) the Coal Inventory Adjustment (such aggregate amount, the "Buyout Price"). The Coal Inventory Adjustment and the CapEx Adjustment shall be subject to a customary closing estimation and post-closing true-up mechanism to be set forth in the Mitchell Interest Purchase Agreement.

(b) Determination of Fair Market Value. Not later than June 30, 2026, the Owners shall commence discussions to determine mutually agreed amounts for the Fair Market Value for the KPCo Interest and the Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Fair Market Value for the KPCo Interest (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 31, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized appraisal firm, which is not an Affiliate of either Owner, with experience valuing coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Appraiser"), the costs and expenses of which shall be borne by the Owner appointing such Appraiser. Each of the Appraisers selected by WPCo and KPCo, respectively, shall work together to select a third Appraiser within fifteen (15) days of selection of the first two Appraisers or, if such first two Appraisers fail to agree upon the appointment of a third Appraiser, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Appraiser shall be borne equally by the Owners. Each Owner shall cooperate with each Appraiser and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its appraisal. The Fair Market Value of the KPCo Interest shall be calculated by the Appraisers as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming that the Units would permanently cease operations as of December 31, 2040 (or such earlier anticipated date as may have been filed by WPCo with the WVPSC) but without taking into account any Decommissioning Costs or the value of the common coal pile. Each Appraiser shall prepare a detailed written appraisal of the Fair Market Value of the KPCo Interest within sixty (60) days after the selection of such third Appraiser and provide its valuation reports to each of the Owners. If the Fair Market Value determined by one of the three Appraisers deviates from the Fair Market Value determination of the middle Appraiser by more than twice the amount by which the Fair Market Value determination of the other Appraiser deviates from the Fair Market Value determination of the middle Appraiser, then the Fair Market Value determination of such Appraiser shall be excluded, the remaining two Fair Market Value determinations shall be averaged, and such average shall be the Fair Market Value, which shall be binding and conclusive on the Owners; otherwise the average of all three Fair Market Value determinations shall be the Fair Market Value, which shall be binding and conclusive on the Owners.

(c) Determination of Decommissioning Costs Amount. Unless prior to June 30, 2027, (i) the Decommissioning Costs Amount (or other alternative Buyout Price) has been mutually agreed by the Owners pursuant to this Section 9.6 or (ii) an Early Retirement Event has occurred, then not later than July 15, 2027, each Owner shall deliver a written notice to the other Owner appointing a nationally or regionally recognized engineering or consulting firm, which is not an Affiliate of either Owner, with experience decommissioning (or arranging decommissioning liability transfer arrangements for) coal-fired electric generating facilities that are comparable in size and scope to the Mitchell Plant ("Qualified Firm"), the costs and expenses of which shall be borne by the Owner appointing such Qualified Firm. Each of the Qualified Firms selected by WPCo and KPCo, respectively, shall work together to select a third Qualified Firm within fifteen (15) days of selection of the first two Qualified Firms or, if such first two Qualified Firms fail to agree upon the appointment of a third Qualified Firm, such appointment shall be made by the American Arbitration Association, or any successor organization thereto. The costs and expenses of the third Qualified Firm shall be borne equally by the Owners. Each Owner shall cooperate with each Qualified Firm and timely provide information and access to the Mitchell Plant facilities (including, subject to any confidentiality restrictions, contracts and financial information) and personnel as may be reasonably needed to complete its determination. The Decommissioning Costs Amount shall be calculated by the Qualified Firms as of December 31, 2028 (or such earlier date of the anticipated closing of the Buyout Transaction), assuming for purposes of such determination (A) the Units would permanently cease operations, and Decommissioning of the Mitchell Plant would commence, as of such date, (B) the Mitchell Plant facilities would be dismantled and removed from the Mitchell Plant site, (C) the Mitchell Plant site would be remediated to a legally permissible industrial use standard, (D) all legal obligations and commitments to Governmental Authorities in connection with the Decommissioning of the Mitchell Plant would be appropriately addressed and satisfied, and (E) such additional or alternative assumptions as the Operating Committee may determine. Each Qualified Firm shall prepare a detailed written determination of the Decommissioning Costs Amount within ninety (90) days after the selection of such third Qualified Firm and provide its determination reports to each of the Owners. If the Decommissioning Costs Amount determined by one of the three Qualified Firms deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm by more than twice the amount by which the Decommissioning Costs Amount determination of the other Qualified Firm deviates from the Decommissioning Costs Amount determination of the middle Qualified Firm, then the determination of such Qualified Firm shall be excluded, the remaining two Decommissioning Costs Amount determinations shall be averaged, and such average shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners; otherwise the average of all three Decommissioning Costs Amount determinations shall be the Decommissioning Costs Amount, which shall be binding and conclusive on the Owners.

(d) Buyout Procedures. Unless an Early Retirement Event has occurred, the Owners shall cooperate in good faith to negotiate and execute the Mitchell Interest Purchase Agreement not later than December 31, 2027, including completing any applicable disclosure schedules and exhibits, consistent with the terms and conditions described in this Section 9.6, so that any applicable regulatory or other approvals shall be timely obtained so as to allow the Buyout Transaction to be consummated on or prior to December 31, 2028.

ARTICLE TEN
DEFAULTS AND REMEDIES

10.1 An Owner shall be deemed to be in default hereunder upon the occurrence of any of the following events with respect to such Owner (each of the following events to be referred to as an "Event of Default," the Owner in default to be referred to as the "Defaulting Owner" and the Owner not in default to be referred to as the "Non-Defaulting Owner"):

(a) an Owner fails to make any payment required by it as and when due and payable in accordance with the terms of this Agreement, the O&M Agreement or any other agreement related to the Mitchell Plant or any Project Asset and such failure is not remedied within ten (10) days after receipt of written notice thereof by such Owner from the other Owner; provided, that any such notice shall include a statement of the amount the Defaulting Owner has failed to pay (a "Payment Default"); or

(b) an Owner fails to perform any material obligation (other than as described in Section 10.1(a)) imposed upon such Owner under this Agreement and such failure is not remedied within thirty (30) days after such Owner receives written notice thereof from the other; provided that, if such thirty (30) day period is not sufficient to enable the remedy or cure of such failure in performance, and such Owner shall have upon receipt of the initial notice promptly commenced and diligently continues thereafter to remedy such failure, then such Owner shall have a reasonable additional period of time (but in no event longer than an additional ninety (90) days from the end of the initial thirty (30) day cure period) to remedy or cure such failure; provided, however, that an Owner shall not be in default of its obligations hereunder to the extent such failure is caused by or is otherwise attributable to a breach by the other Owner of its obligations under this Agreement.

10.2 Without limiting the rights and remedies available to the Non-Defaulting Owner under Applicable Law, in the case of an Event of Default, the Non-Defaulting Owner shall have the right (but not the obligation) to (x) pay all or a portion of the amounts that were the subject of the Payment Default on behalf of the Defaulting Owner and (y) perform the obligation(s) which the Defaulting Owner has failed to perform on behalf of and at the expense of the Defaulting Owner (in any such case subject to all limits on liability benefiting the Defaulting Owner as set forth in this Agreement); and, if such payment is made (the portion as so paid or expended in connection with such performance, the "Paid Amount"), to:

(a) charge the Defaulting Owner interest with respect to the Paid Amount, from the day the payment was made by the Non-Defaulting Owner until it is paid in full by the Defaulting Owner to the Non-Defaulting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Non-Defaulting Owner has notified the Defaulting Owner in advance of its intention to charge interest with respect to such Paid Amount;

(b) set off against the Paid Amount any sums due or accruing to the Defaulting Owner by the Non-Defaulting Owner in accordance with this Agreement;

(c) maintain an action or actions for the Paid Amount and interest thereon on a continuing basis as the Paid Amount becomes payable but is not paid by the Defaulting Owner, as if the obligation to pay those amounts and the interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Owner to set-off or counter-claim against the Non-Defaulting Owner; and any obligation to pay interest under this Section 10.2 shall apply until the Payment Default is rectified or remedied; and

(d) at the Non-Defaulting Owner's option, (i) draw on any letter of credit posted by the Defaulting Owner pursuant to Section 4.3 in an amount equal to the Paid Amount, including all interest accrued thereon or (ii) receive one hundred percent (100%) of any revenues arising from or attributable to the sale of capacity, energy, ancillary services or other energy products from the Mitchell Plant that the Defaulting Owner would otherwise be entitled to receive in respect of its Assigned Capacity until the Non-Defaulting Owner receives an amount equal to the Paid Amount, including all interest accrued thereon, *plus* all costs of collection incurred in connection therewith, and the Owners shall cooperate with each other, the Operator, applicable Governmental Authorities (including in respect of securing any regulatory approvals) or other third parties (including lenders) as may be reasonably necessary to facilitate the Non-Defaulting Owner's right to be paid and receive the revenues attributable to the Defaulting Owner's Assigned Capacity until the applicable Paid Amount, including all interest accrued thereon and all costs of collection incurred in connection therewith has been paid to the Non-Defaulting Owner in full, including facilitating any appropriate changes in the applicable settlement accounts with respect to which market revenues are credited or paid by PJM or other applicable regional transmission organizations and executing any documents required to assign over such market revenues to the Non-Defaulting Owner.

ARTICLE ELEVEN
LIMITATION OF LIABILITY

11.1 Without limiting any other provision of this Agreement, each Owner's liability under this Agreement shall be limited to direct actual damages only. Such direct actual damages shall be the sole and exclusive remedy with respect to all claims arising under this Agreement and all other remedies or damages at law or in equity with respect to claims arising under this Agreement are waived, and unless expressly provided herein, no Owner shall be liable for consequential, punitive, incidental, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or in contract, under any indemnity provision or otherwise, with respect to claims arising under this Agreement. It is the intent of the Owners that the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any Owner, whether such negligence be sole, joint or concurrent, or active or passive. Notwithstanding anything herein to the contrary, the limitations set forth in this Section 11.1 shall not limit or preclude any indemnification obligations of an Owner pursuant to Article Ten of the O&M Agreement, including with respect to indemnification for third-party claims.

ARTICLE TWELVE
DISPUTE RESOLUTION

12.1 If either Owner believes that a dispute (including a Technical Dispute) has arisen as to the meaning or application of this Agreement, it shall submit a written description of the disputed matter to the Operating Committee, and shall provide a copy of that submission to the other Owner.

12.2 If the Operating Committee is unable to reach agreement on the resolution of a dispute not constituting a Technical Dispute submitted to the Operating Committee pursuant to Section 12.1 within thirty (30) days after the dispute is presented to it, the matter shall be referred to senior executive officers with the authority to resolve such dispute of each of the Owners for resolution in the manner that such individuals shall agree is appropriate; provided, however, that either Owner may exercise any and all rights at law or equity at any time after the end of the thirty (30) day period provided for the Operating Committee to reach agreement if the Operating Committee has not reached agreement.

12.3 If the Operating Committee is unable to reach agreement on the resolution of a Technical Dispute submitted to the Operating Committee within ten (10) business days after such Technical Dispute is presented to it, then either Owner may refer such Technical Dispute to a Technical Expert. Within ten (10) business days following receipt of an Owner's notice referring a Technical Dispute to a Technical Expert, the Operating Representatives shall confer to agree upon a Technical Expert to hear the Technical Dispute. If the Owners are unable to agree upon the appointment of a Technical Expert, then at the end of such ten (10) business day period each Owner shall, within five (5) business days, notify the other Owner in writing of its designation of a proposed Technical Expert. The two proposed Technical Experts shall, within five (5) business days, select a Technical Expert (who may be one of the two Technical Experts designated by the Owners or another Technical Expert) and such Technical Expert shall hear the Technical Dispute. Each Owner shall be required to put forth and endorse one proposal, budget or solution, as the case may be, as its proposed resolution to the Technical Dispute, based on an agreed statement of the nature of the Technical Dispute and agreed facts surrounding such Technical Dispute. Each Owner's proposal, budget or solution shall be delivered to the Technical Expert and the other Owner no later than twenty (20) business days after the date of the notice of the Owner submitting the Technical Dispute to the Technical Expert. The Technical Expert shall be guided by consideration of (a) this Agreement, (b) all other agreements between the Owners relating to the Mitchell Plant, including the O&M Agreement and (c) Prudent Operation and Maintenance Practices (as defined in the O&M Agreement), and be required to select one of the proposals, budgets or solutions, as the case may be, and shall not be able to select any other proposal, budget or solution, except to the extent mutually agreed by the Owners. The Technical Expert shall render a decision resolving the matter within forty-five (45) days of the date of the notice of the Owner submitting such matter. The Technical Expert shall not award to either Owner any relief greater than that initially sought by such Owner. The decision of the Technical Expert shall be final and binding upon the Owners and not subject to appeal or review. The Owners shall bear equally all costs and expenses of the Technical Expert procedure and the Technical Expert shall not have the authority to award costs or attorneys' fees to either Owner. The Technical Expert shall act as an expert and not as an arbitrator and the provisions of the Federal Arbitration Act and the laws relating to arbitration shall not apply to the Technical

Expert or the Technical Expert's determination or the procedure by which a determination is reached. Except as provided in Section 7.2(a), the Technical Expert's decision shall not in any event result in deviations from the agreed allocations of costs between the Owners as set forth in this Agreement.

12.4 Except as provided in this Article Twelve, the existence, contents, or results of any settlement negotiations or the results thereof under this Article Twelve may not be disclosed without the prior written consent of the Owners, provided, however, that either Owner may make disclosures as may be required to fulfill regulatory obligations to any Governmental Authority having jurisdiction, and may inform its lenders, affiliates, auditors, and insurers, as necessary, under pledge of confidentiality, and may consult with expert consultants as required in connection with any proceeding under pledge of confidentiality.

12.5 Nothing in this Agreement shall be construed to preclude either Owner from filing a petition or complaint with FERC with respect to any claim over which FERC has jurisdiction. In such case, the other Owner may request that FERC reject the petition or complaint or otherwise decline to exercise its jurisdiction. If FERC declines to act with respect to all or part of a claim, the portion of the claim not so accepted by FERC may be resolved through an action at law or equity. To the extent that FERC asserts or accepts jurisdiction over all or part of a claim, the decisions, findings of fact, or orders of FERC shall be final and binding, subject to judicial review under the Federal Power Act, 16 U.S.C. §§ 791a et seq., as amended from time to time, and any proceedings that may have commenced prior to the assertion or acceptance of jurisdiction by FERC shall be stayed, pending the outcome of FERC proceedings. To the extent that any decisions, findings of fact, or orders of FERC do not provide a final or complete remedy to an Owner seeking relief, such Owner may proceed at law or equity to secure such a remedy, subject to any FERC decisions, findings, or orders.

12.6 If an Owner (the "Contesting Owner") contests in good faith any amount paid pursuant to the terms of this Agreement following receipt of the written notice of the other Owner delivered pursuant to Section 10.1(a), and any portion of such amount is determined or resolved (including pursuant to the dispute resolution procedures of this Article Twelve) to be in excess of the actual amount due pursuant to the terms of this Agreement, then the Contesting Owner may charge the other Owner interest with respect to such excess amount from the day the payment was made until it is repaid to the Contesting Owner, at the rate equal to the prime rate as published from time to time in *The Wall Street Journal* (or any successor publication) plus five (5) percentage points per annum, calculated daily, regardless of whether the Contesting Owner has notified the other Owner in advance of its intention to charge interest with respect to such excess amount, and the other Owner shall make payment in full in respect of such excess amount and interest within thirty (30) days of written demand therefor.

ARTICLE THIRTEEN
GENERAL

13.1 This Agreement shall inure to the benefit of and be binding upon the signatories hereto and their respective successors and permitted assigns, but this Agreement may not be

assigned by any signatory without the written consent of the other parties hereto or as permitted by Article Nine hereof.

13.2 This Agreement is subject to the regulatory authority of any State or Federal agency having jurisdiction.

13.3 The interpretation and performance of this Agreement is governed by and shall be construed in accordance with the laws of the State of New York, exclusive of the conflicts of law provisions thereof that would require the application of the laws of a different jurisdiction. Each Owner hereby agrees that any Action arising out of or relating to this Agreement brought by an Owner (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and the Owners hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby, and the appellate courts from any thereof in connection with any action arising out of or relating to this Agreement or any other agreement related to the Mitchell Plant or any Project Asset and the transactions contemplated hereby, and consents that any such action may be brought in such courts and waives any objection it may now or hereafter have to the venue of any such action in any such court or that such action was brought in an inconvenient court. EACH OWNER HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE O&M AGREEMENT, OR ANY OTHER AGREEMENT RELATED TO THE MITCHELL PLANT OR ANY PROJECT ASSET.

13.4 This Agreement supersedes all previous representations, understandings, negotiations, and agreements, either written or oral between the signatories hereto or their representatives with respect to operation of the Mitchell Plant, including the Original Operating Agreement. Notwithstanding the foregoing, the amendment and restatement of the Original Operating Agreement effected hereby shall not relieve any party thereto of any undischarged obligation or liability of such party in respect of the period prior to the Effective Date under the Original Operating Agreement. This Agreement, together with the O&M Agreement (and any replacements thereof), constitutes the entire agreement of the signatories hereto with respect to the operation of the Mitchell Plant and the ownership thereof. The signatories hereto hereby agree that this Agreement shall amend the Original Operating Agreement to irrevocably remove AEPSC as a party thereto and, on and after the Effective Date, AEPSC shall no longer be a party thereto or hereto or entitled to rights, or subject to obligations, as a party to this Agreement; provided, however, that Operator shall be permitted to delegate any of its rights, duties and obligations under this Agreement and the O&M Agreement to AEPSC without the consent of KPCo, but without relieving Operator of any of its obligations hereunder.

13.5 No amendments or modifications of this Agreement are valid unless in writing and signed by duly authorized representatives of the Owners.

13.6 Each Owner shall designate in writing a representative to receive any and all notices required under this Agreement. Notices shall be in writing and shall be given to the

representative designated to receive them, either by personal delivery, certified mail, e-mail or any similar means, properly addressed to such representative at the address specified below:

KENTUCKY POWER COMPANY
[_____]
[_____]

Attn: _____

Phone: [_____]

Email: [_____]

WHEELING POWER COMPANY
[_____]
[_____]
Attn: _____

Phone: [_____]

Email: [_____]

All notices shall be deemed to have been given (a) when personally delivered, (b) when transmitted (except if not a Business Day then the next Business Day) via electronic mail (provided that no error message or other notification of non-delivery is generated with respect to the intended recipient), (c) the day following the day (except if not a Business Day then the next Business Day) on which the same has been delivered prepaid to a reputable national overnight air courier service or (d) the third Business Day following the day on which the same is sent by certified or registered mail, postage prepaid, in each case to the respective parties hereto at the address set forth below, or at such other address as such Owner may specify by written notice to the other Owner (or at such other address for an Owner as shall be specified in a notice given in accordance with this Section 13.6). Each Owner may, by written notice to the other Owner, change the representative or the address to which such notices are to be sent.

13.7 This Agreement may be executed in any number of counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all of such counterparts shall constitute for all purposes one agreement. Any signature hereto delivered by a party hereto by facsimile or other electronic transmission shall be deemed an original signature hereto.

13.8 Except as otherwise specifically provided, all fees, costs and expenses incurred by the parties hereto in negotiating this Agreement shall be paid by the party incurring the same, including legal and accounting fees, costs and expenses.

13.9 Any of the terms, covenants, or conditions hereof may be waived only by a written instrument executed by or on behalf of the Owners waiving compliance. No course of

dealing on the part of any Owners, or its respective officers, employees, agents, accountants, attorneys, investment bankers, consultants or other authorized representatives, nor any failure by an Owner to exercise any of its rights under this Agreement shall operate as a waiver thereof or affect in any way the right of such Owner at a later time to enforce the performance of such provision. No waiver by any Owner of any condition, or any breach of any term or covenant contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach or a waiver of any other condition or of any breach of any other term or covenant. The rights of the Owners under this Agreement shall be cumulative, and the exercise or partial exercise of any such right shall not preclude the exercise of any other right.

13.10 This Agreement shall be binding upon and inure to the benefit of the Owners and their respective successors and permitted assigns.

13.11 No Owner will issue, or permit any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to issue, any press releases or otherwise make, or cause any of its Affiliates, its or its Affiliate's directors, officers, employees, consultants, agents or other representatives to make, any public statements or other public disclosures with respect to this Agreement, or the transactions contemplated hereby without the prior written consent of the other Owner; provided, however, that the foregoing requirement to obtain prior written consent shall not apply where such release, statement or disclosure is deemed in good faith by the releasing or disclosing Owner to be required by Applicable Law or under the rules and regulations of a recognized stock exchange on which shares of such Owner (or any of its Affiliates) are listed, so long as prior to making any such release, statement or disclosure and to the extent legally permitted, the releasing or disclosing Owner shall provide prompt notice to the other Owner, consult the other Owner as to the form, contents and timing of such release or disclosure and, when available, provide a copy of such release, statement or disclosure containing such information to the other Owner.

13.12 If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Owners shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Owners as closely as possible in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

13.13 Each Owner acknowledges that it shall be inadequate or impossible, or both, to measure in money the damage to the Members if any of them or any transferee or any legal representative of any Owner fails to comply with any of the restrictions or obligations imposed by Article Nine that every such restriction and obligation is material, and that in the event of any such failure, the Owners shall not have an adequate remedy at law or in damages. Therefore, each Owner consents to the issuance of an injunction or the enforcement of other equitable remedies against such Owner at the suit of an aggrieved party without the posting of any bond or other security, to compel specific performance of all of the terms of Article Nine and to prevent any Disposition in contravention of any terms of Article Nine, and waives any defenses thereto,

including the defenses of: (i) failure of consideration, (ii) breach of any other provision of this Agreement and (iii) availability of relief in monetary damages.

ARTICLE FOURTEEN
DEFINITIONS

For all purposes of this Agreement (including the preceding sections and recitals), unless otherwise required by the context in which any defined term appears or otherwise defined in the body of this Agreement, capitalized terms have the meanings specified in this Article Fourteen. In this Agreement, unless expressly stated otherwise: (a) reference to any agreement (including this Agreement), document or instrument means such agreement, document or instrument as has been, or may be, amended, supplemented or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms hereof; (b) reference to any Applicable Law means such Applicable Law as has been, or may be, amended, modified, codified or reenacted, in whole or in part, and in effect from time to time, including rules and regulations, promulgated thereunder; (c) the singular includes the plural, as the context requires; (d) the terms "includes" and "including" mean "including, but not limited to"; (e) "Day" (regardless of capitalization) shall mean a calendar day, unless specifically designated as a Business Day or business day; (f) "Month" (regardless of capitalization) shall mean a calendar month; (vii) references to articles, sections and appendices mean the articles and sections of, and appendices to, this Agreement.

"Adjusted Fair Market Value" means any positive amount (if any, and zero otherwise) equal to (A) the Fair Market Value, minus (B) the CapEx Adjustment.

"AEPSC" shall have the meaning given to such term in the Preamble.

"Agreement" shall have the meaning given to such term in the Preamble.

"Applicable Law" shall mean all laws (including common law), statutes, codes, acts, treaties, ordinances, orders, judgments, writs, decrees, injunctions, rules, regulations, governmental approvals, permits, directives, and requirements of all Governmental Authorities (including with respect to the environment) having jurisdiction over an Owner, any other person or entity (as to that person or entity), this Agreement, any Project Asset or the Mitchell Plant, as applicable.

"Appraiser" shall have the meaning given to such term in Section 9.6(b).

"Assigned Capacity" shall have the meaning given to such term in Section 2.3.

"Buyout Price" shall have the meaning given to such term in Section 9.6(a).

"Buyout Transaction" shall have the meaning given to such term in Section 9.6.

"CapEx Adjustment" shall mean (a) 50% of any capital expenditures (or portion thereof), including ELG Capital Expenditures, to the extent funded by WPCo in an amount in excess of 50% of the total amount thereof on or prior to December 31, 2028, plus (b) an amount equal to

the WACC for the amounts included in clause (a), applied to all of such amounts using the then-applicable WACC from the dates of funding through the closing date of the consummation of the Buyout Transaction.

"Capital Budget" shall have the meaning given to such term in Section 1.7.

"CertainTeed Contract" shall mean that certain Supply Agreement dated March 11, 2005, by and between CertainTeed Gypsum West Virginia, Inc. (formerly BPB West Virginia Inc.) and KPCo (as assignee of Ohio Power Company), as amended by Amendment No. 2010-1 dated August 2, 2010, as further amended by Amendment No. 2012-1 dated February 20, 2012 and as further amended by Amendment No. 2013-1 dated June 5, 2013, as may be amended, amended and restated, supplemented or modified from time to time, and as may be assigned to Operator or an Affiliate of Operator.

"CCR Capital Expenditures" shall mean all capital expenditures associated with implementation of the CCR Upgrades.

"CCR Rule" means the Coal Combustion Residuals Rule, 40 CFR Part 257 (April 17, 2015, as amended), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"CCR Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable KPCo and WPCo to comply with the CCR Rule.

"Coal Inventory Adjustment" shall mean the weighted-average cost of KPCo's investment in the common coal pile for the Mitchell Plant.

"Control" shall have the meaning given to such term in Section 7.10.

"Credit Rating" means with respect to any entity, the rating then assigned to such entity's unsecured, senior long-term debt or deposit obligations (not supported by third party credit enhancements) by S&P or Moody's. If no rating is assigned to such entity's unsecured, senior long-term debt or deposit obligations by S&P or Moody's, then "Credit Rating" means the general corporate credit rating or long-term issuer rating assigned to such entity by S&P or Moody's. If an entity is rated by both S&P and Moody's and the ratings are at different levels, then "Credit Rating" means the lowest such rating.

"Decommission" or "Decommissioning" shall mean the retirement, dismantlement and permanent removal of the Units and other property, plant, and equipment comprising the Mitchell Plant, including any common facilities associated with each Unit that are to be permanently removed from service, the restoration of the Mitchell Plant site and the removal or remediation of any hazardous materials or other contaminated equipment, materials, coal ash or wastes associated therewith, in a manner that meets the requirements of Applicable Law.

"Decommissioning Costs" shall mean all costs and obligations expended or incurred in the performance of all work reasonably necessary or undertaken to Decommission the Mitchell Plant, including work associated with the preparation and implementation of Decommissioning plans and the preparation, submittal and prosecution of all necessary applications with

Governmental Authorities as required to Decommission the Mitchell Plant in accordance with Applicable Law.

"Decommissioning Costs Amount" shall mean an amount equal to 50% of all Decommissioning Costs, as determined by and adjusted in accordance with the procedures and calculation criteria and factors set forth in the Section 9.6(c).

"Defaulting Owner" shall have the meaning given to such term in Section 10.1.

"Depreciable Life" means, with respect to a capital item, the shorter of (a) the reasonably expected depreciable life (in months) of such capital item and (b) the number of months between the anticipated in-service date of such capital item and December 31, 2040 (or such earlier anticipated date of the permanent cessation of operations of the Units filed with the WVPSC).

"Dispose" or "Disposition" shall have the meaning given to such term in Section 9.1.

"Early Retirement Event" shall mean the delivery of a written notice by WPCo to KPCo irrevocably committing to permanently cease operations of the Mitchell Plant effective on or, with KPCo consent, prior to December 31, 2028, which notice shall be consistent with WPCo's current filings at such time with the WVPSC in respect of the Mitchell Plant.

"Effective Date" shall have the meaning given to such term in the Preamble.

"ELG Capital Expenditures" shall mean all capital expenditures associated with implementation of the ELG Upgrades.

"ELG Rule" shall mean the Steam Electric Reconsideration Rule, 85 Fed. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the USEPA or the State of West Virginia.

"ELG Upgrades" shall mean any improvements or upgrades to the Mitchell Plant to enable WPCo to comply with the ELG Rule.

"Emission Allowances" shall have the meaning given to such term in Section 7.7.

"Encumbrance" shall mean with respect to any property or asset (a) any mortgage, deed of trust, charge, lien, pledge, hypothecation, title retention arrangement or other security interest, as or in effect as security for the payment of a monetary obligation or the observance of any other obligation; (b) any easement, servitude, restrictive covenant, equity or interest in the nature of an encumbrance, garnishee order, writ of execution, right of set-off, lease, license to use or occupy, assignment of income or monetary claim, whether or not filed, recorded or otherwise perfected under Applicable Law; and (c) any agreement to create any of the foregoing or allow any of the foregoing to exist.

"Event of Default" shall have the meaning given to such term in Section 10.1.

"Fair Market Value" shall mean, with respect to the KPCo Interest as of any date, an amount (which may be a positive or a negative number) equal to 50% of the cash price obtainable in an arm's-length sale of the entirety of the Mitchell Plant between an informed and willing buyer and

seller, in each case under no compulsion to buy or sell, as the case may be, as determined by and adjusted in accordance with the procedures and valuation criteria and factors set forth in Section 9.6(b).

"FERC" shall have the meaning given to such term in Section 5.1.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"FPA" means the Federal Power Act.

"Governmental Authority" means any federal, national, regional, state, municipal or local government authority, tribunal, court, agency, body, board or instrumentality, or any regulatory, administrative or other department, commission, bureau or agency, taxing authority or power, or any political or other subdivision, department or branch of the foregoing, including any independent system operator, regional transmission organization or electric reliability organization.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"KPCo" shall have the meaning given to such term in the Preamble.

"KPCo Interest" shall have the meaning given to such term in Section 9.6.

"KPSC" shall mean the Kentucky Public Service Commission.

"Mitchell Interest Purchase Agreement" shall mean an asset purchase agreement between KPCo and WPCo to implement the Buyout Transaction at the Buyout Price, consistent with Section 9.6 and on a non-recourse basis to KPCo, subject to an indemnity expiring on December 31, 2050 by KPCo for the benefit of WPCo, with a cap of $15 million, for unknown contingent liabilities with respect to items arising from KPCo's 50% Ownership Interest prior to the date of the closing of the Buyout Transaction and not estimated or otherwise factored in the calculation of Fair Market Value or the Decommissioning Costs Amount.~~1~~

"Mitchell Plant" shall mean the Mitchell Power Generation Facility, which consists of the Units and associated plant, equipment, real estate and other related facilities, located in Moundsville, West Virginia, but excluding the real property and operation known as the Conner Run Fly Ash Impoundment and Dam.

"Moody's" shall have the meaning given to such term in Section 4.3.

"Non-Defaulting Owner" shall have the meaning given to such term in Section 10.1.

[redacted]

"Non-Offering Owner" shall have the meaning given to such term in Section 9.1.

"O&M Agreement" shall have the meaning given to such term in the Recitals.

"Offering Owner" shall have the meaning given to such term in Section 9.1.

"Operating Committee" shall have the meaning given to such term in Section 7.1.

"Operating Representative" shall have the meaning given to such term in Section 7.1.

"Operator" shall have the meaning given to such term in the Recitals.

"Original Operating Agreement" shall have the meaning given to such term in the Recitals.

"Owner" or "Owners" shall have the meaning given to such term in the Preamble.

"Ownership Interest" shall have the meaning given to such term in the Recitals.

"Paid Amount" shall have the meaning given to such term in Section 10.2.

"Payment Default" shall have the meaning given to such term in Section 10.1(a).

"Project Assets" shall have the meaning given to such term in Section 1.1.

"Proposed Purchaser" shall have the meaning given to such term in Section 9.1.

"Qualified Firm" shall have the meaning given to such term in Section 9.6(c).

"Ratings Requirement" shall mean a Credit Rating for such Owner (or if such Owner has provided a guaranty issued by an Affiliate to satisfy its obligations under this Section 4.3, such Owner's Affiliate guarantor) of at least "BBB-" by S&P or at least Baa3 by Moody's, and if such Credit Rating is "BBB-" by S&P or "Baa3" by Moody's then such Credit Rating must not be on negative credit watch by S&P or Moody's.

"S&P" shall have the meaning given to such term in Section 4.3.

"Tax Code" shall have the meaning given to such term in Section 6.6.

"Technical Dispute" shall mean any dispute which this Agreement expressly provides shall be a Technical Dispute.

"Technical Expert" shall mean any individual selected in accordance with the procedure specified in Section 12.3 and who (a) has significant professional qualifications and practical experience in the subject matter of the Technical Dispute, (b) has no interest, financial or otherwise, or duty which conflicts or may conflict with such individual's functions as a Technical Expert (such individual being required to fully disclose any such interest or duty prior to any appointment) and (c) is not currently and has not been (i) during the five (5) years prior to the date of appointment, an employee of any of the Owners or any of their Affiliates and (ii)

during the three (3) years prior to the date of appointment, a contractor or consultant of either of the Owners or any of their Affiliates, unless otherwise mutually agreed by the Owners.

"Term" shall have the meaning given to such term in Section 8.2.

"Total Net Capability" shall have the meaning given to such term in Section 2.1.

"Total Net Generation" shall have the meaning given to such term in Section 2.2.

"Unit" shall have the meaning given to such term in the Recitals.

"USEPA" shall have the meaning given to such term in Section 7.7.

"WACC" shall mean, as of any date, WPCo's then-applicable WVPSC-authorized weighted average cost of capital, compounded semiannually (consistent with the compounding of Allowance for Funds Used During Construction (AFUDC)).

"WPCo" shall have the meaning given to such term in the Preamble.

"WVPSC" shall mean the Public Service Commission of West Virginia.

[*Signature pages follow*.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their officers thereunto duly authorized as of the date first above written.

KENTUCKY POWER COMPANY

By: _____

Title:

WHEELING POWER COMPANY

By: _____
Title:

Solely with respect to Section 13.4:

AMERICAN ELECTRIC POWER SERVICE CORPORATION

By: _____
Title:

Exhibit A

Capital Budget, Initial Budgets and Forecast

[To Be Attached as of the Effective Date.]

Exhibit B

Form of Monthly Sample Report

[To Be Attached as of the Effective Date.]

Document comparison by Workshare 10.0 on Tuesday, March 15, 2022 11:43:47 AM

Input:	
Document 1 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\12. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-26-2021].DOCX
Description	12. Project Nickel - Mitchell Plant Ownership Agreement [AEP Draft 10-26-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\AEP - Liberty Utilities - Mitchell Agreements\Mitchell Plant Ownership Agreement\13. Project Nickel - Mitchell Plant Ownership Agreement [Execution Version] [10-26-2021].DOCX
Description	13. Project Nickel - Mitchell Plant Ownership Agreement [Execution Version] [10-26-2021]
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Moved to	0
Style changes	0
Format changes	0
Total changes	25

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

[_____]

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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[1] Note to Draft: To be provided separately to bidders.
[1] [2] Note to Draft: These will be the forms included in the separate regulatory filings to be made in West Virginia and Kentucky (which may be made prior to signing) by Wheeling and Kentucky Power, respectively.

[2] Note to Draft: To be provided separately to bidders.

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and [_____], a [_____] ("Purchaser").[3] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

[3] Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 11:59 p.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) certificates evidencing the Shares, duly endorsed in blank or with stock powers duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2);

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) ~~(E)~~ resignations or other evidence of removal, effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing.

(ii) Purchaser shall:

(A) pay to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(C) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(D) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(E) deliver or cause to be delivered to Sellers a copy of the R&W Policy, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(F) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than two (2) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, and (iv) the Estimated Capital Expenditures Amount (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the Final Capital Expenditures Amount, in each case as of the Closing (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) become final and binding, Sellers and their Affiliates and Representatives shall be permitted to access and review the books, records and work papers of the Acquired

Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing access to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement become final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that would impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or the Final Capital Expenditures Amount or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all matters that remain in dispute with respect to the Notice of Disagreement to [_____] or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the

Final Capital Expenditures Amount that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement."

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the sum (which may be a positive or negative amount) of the difference between (a)(i) the Final Closing Cash and (ii) the Estimated Closing Cash, (b)(i) the Final Net Working Capital and (ii) the Estimated Net Working Capital, (c)(i) the Final Closing Indebtedness and (ii) the Estimated Closing Indebtedness, and (d)(i) the Final Capital Expenditures Amount and (ii) the Estimated Capital Expenditures Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers (or one or more of Sellers' designees) shall pay in cash to Purchaser the absolute value of the

amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in (a) the reports, schedules, forms, statements and other documents filed by AEP with, or furnished to, the SEC and publicly available on or following January 1, 2019 (excluding any disclosures of factors or risks contained or references therein under the captions "Risk Factors" or "Forward-Looking Statements" and any other similar general, predictive or cautionary statements), or (b) the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. The Acquired Companies have all requisite corporate power and authority to carry on their respective businesses as now being conducted and are qualified to do business and are in good standing as foreign corporations in each jurisdiction where the conduct of their businesses requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Acquired Companies do not own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of the Acquired Companies in effect as of the Effective Date.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable and owned by the applicable Seller, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws). The Shares were not issued in violation of any Organizational Document of the Acquired Companies, and AEP and AEP TransCo have good and valid title and ownership, of record and beneficially, to the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the outstanding common shares and all of the outstanding equity interests of the Acquired Companies.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options,

warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations that provide the holders thereof the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller shall have, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required on the part of Sellers or any member of the Seller Group for the execution, delivery and performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and their Affiliates of the transactions contemplated hereby or thereby, other than: ~~(a)~~ (a) the Required Regulatory Approvals, ~~(b)~~i) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), ~~(c)~~ii) notice and judicial approval of a modification to the NSR Consent Decree or ~~(d)~~iii) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming

compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or (iii) violate any Law applicable to an Acquired Company or any of its properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date, (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract or (iv) liabilities or obligations that have not had, and would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date through the Effective Date, ~~(a)~~(a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and ~~(b)~~(b) there has not occurred any Material Adverse Effect.

2.7 Sufficiency of Assets. At Closing, except for ~~(a)~~(a) Shared Contracts (or replacement or bifurcated arrangements), ~~(b)~~(b) the assets and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements, ~~(c)~~(c) the Intercompany Arrangements (or alternative replacement arrangements set forth on Section 4.8(a) of the Sellers Disclosure Letter) and ~~(d)~~(d) as set forth on Section 2.7 of the Sellers Disclosure Letter, the assets and properties of the Acquired Companies constitute all of the material assets and properties required to enable each Acquired Company to conduct in all material respects its business as currently being conducted.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party, which shall be deemed to constitute "Material Contracts":

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $5,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $5,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) all Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $5,000,000;

(iv) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(v) all Contracts that limit the ability of an Acquired Company to compete in any line of business or in any geographic area (other than limitations that in the aggregate are immaterial);

(vi) all Commercial Hedges having a notional value or involving aggregate consideration or aggregate payment obligations over the remaining term of such Contract in excess of $5,000,000;

(vii) all Collective Bargaining Agreements; and

(viii) all partnership, joint venture and joint ownership Contracts.

(b) Assuming the due authorization, execution and delivery of each Material Contract by the other parties thereto, (i) other than any Intercompany Arrangements severed, replaced, from which an Acquired Company has withdrawn or that have been terminated in accordance with Section 4.8(a), each such Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, and (ii) to the Knowledge of Sellers, neither the applicable Acquired Company nor any other party thereto is in breach of, or in default under, any such Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, third-party Intellectual Property and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement, constitute a scope of the Intellectual Property suitable to operate the business of the Acquired Companies as operated as of the Effective Date. To the Knowledge of Sellers, the businesses conducted by the Acquired Companies as of the Effective Date, do not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no Actions existing, pending or, to the Knowledge of Sellers, threatened in writing against an Acquired Company or any of its assets or properties, and there are no Orders outstanding against an Acquired Company or any of its assets or properties, in each case that would reasonably be expected to have a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, properties and business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material

Adverse Effect; provided, however, that this Section 2.11, does not address employee benefit matters, Taxes and environmental matters, which are exclusively addressed by Section 2.13, Section 2.15 and Section 2.16, respectively.

2.12 Real Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) fee simple title to the Owned Real Property and all improvements thereon and leasehold interests in the Leased Real Property and all improvements thereon (to the extent leased by such Acquired Company), both free and clear of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From and after the Closing Date, no circumstances shall exist that would reasonably be expected to result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any material payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee, (ii) materially increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee or (iii) result in any

amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Prior to the Closing, Sellers shall provide to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status.

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, to the Knowledge of Sellers, neither Acquired Company is a party to any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, except as would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, (i) there are no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened in writing to be brought or filed with the National Labor Relations Board, and (ii) there are no labor union organizing campaigns, with respect to Acquired Company Employees. From the Balance Sheet Date until the Effective Date, except as would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, there are no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened in writing against or affecting the Acquired Companies.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company is in material compliance with all applicable Laws relating to the collection and withholding of Taxes.

(h) The representations and warranties set forth in this Section 2.15, along with the representations and warranties set forth in Section 2.13 that expressly relate to Taxes, are the sole and exclusive representations and warranties set forth in this Agreement with respect to Taxes.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and each Acquired Company is in compliance with the requirements of all applicable Environmental Laws.

(b) Except for matters that have been fully resolved or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity arising under Environmental Laws, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, to the Knowledge of Sellers, there is and has been no Release from, in, or on any of the Real Property (except as permitted pursuant to Environmental Laws or Environmental Permits) that would reasonably be expected to result in an Environmental Claim against an Acquired Company.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved.

(e) This Section 2.16 contains the exclusive representations and warranties of Sellers with respect to environmental matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and each Acquired Company is in compliance in all material respects with its insurance policies and is not in default under any such policy, (ii) each such policy is in full force and effect and (iii) no written notice of cancellation, termination or nonrenewal (other than written notices of nonrenewals received in the ordinary course of business) has been received by an Acquired Company with respect to any such insurance policy.

2.20 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of [___]; Purchaser has all requisite power and

authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Additional Regulatory Filings and Consents, (c) notice and judicial approval of a modification to the NSR Consent Decree or (d) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (d) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its properties or assets are bound or (iii) violate any Law applicable to Purchaser or any of their Affiliates or any of their respective properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or

acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.[4]

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its respective directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has, as of the Effective Date, and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its

[4] Note to Draft: Non-U.S. bidders to address CFIUS requirements, if applicable.

Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) [Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by [_____] (the "Guarantor") in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.]

(c) [Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding equity commitment letter from [_____], pursuant to which, and subject to the terms and conditions of which, [_____] has agreed to provide equity financing ("Equity Financing") to Purchaser in connection with the transactions contemplated by this Agreement (the "Equity Commitment"). The Equity Commitment is a legal, valid and binding obligation of Purchaser and the other parties thereto. The Equity Commitment is in full force and effect, and has been withdrawn, rescinded or terminated or otherwise amended or modified in any respect, and no such amendment, rescission, termination or modification is contemplated. The net proceeds from the Equity Commitment will be sufficient for Purchaser to consummate the transactions contemplated by this Agreement, including making all payments required pursuant to Article I and payments of any fees and expenses contemplated to be paid by Purchaser under this Agreement and making or causing to be made the payments described in Section 4.16 if and when required in accordance with the applicable Debt Agreement or otherwise required pursuant to Section 4.16. As of the date of this Agreement, there are no side letters, understandings or other agreements or arrangements relating to the Equity Commitment to which Purchaser, [_____] or any of their Affiliates is a party and that could (x) impose any new or additional or more restrictive condition precedent to the funding of such Equity Commitment, (y) result in any delay in the funding of such Equity Commitment or (z) result in any reduction to the aggregate amount available under the Equity Commitment on the Closing Date.][5]

(d) After giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies (assuming the accuracy of the representations in Article II) will (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary

[5] Note to Draft: Section 3.7(b) and (c) to be included, as applicable, if Purchaser itself is not a creditworthy entity.

course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with

such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) in connection with actions taken in response to emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operation matters (provided that Sellers shall provide notice to Purchaser of any such event as soon as reasonably practicable), (3) for any COVID-19 Measures, (4) as may be required in accordance with Good Utility Practice, or (5) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter,[6] during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in the ordinary course of business in all material respects, use commercially reasonable efforts to preserve intact the businesses of each Acquired Company and preserve the goodwill and relationships with customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), transfer, or otherwise dispose of any of the material assets of an Acquired Company, other than (A) the use or sale of inventory or Real Property in the ordinary course of business, (B) the disposal of obsolete assets in the ordinary course of business, (C) pursuant to Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of

[6] NTD: Schedule 4.1 to be modified to include a description of the Mitchell regulatory filings that will be filed with the KPSC by Kentucky Power in connection with the request for approval of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) enter into any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments and relinquishments in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be fully performed prior to the Closing, (D) Contracts entered into to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges entered into in the ordinary course of business, (F) amendments to the Collective Bargaining Agreements entered into in the ordinary course of business of Sellers and their Affiliates, (G) any Contract entered into, assigned or amended to effect any action otherwise permitted pursuant to this Section 4.1(a)) ~~and~~, (H) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and the Mitchell Plant O&M Agreement, and (I) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter);

(iii) materially increase the compensation or benefits of any Acquired Company Employee earning over $125,000 per year except (A) as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement, (B) for increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (C) as expressly contemplated by Article V;

(iv) (A) amend or propose to amend an Acquired Company's Organizational Documents in any material respect, (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire any capital stock of an Acquired Company or (C) declare, set aside or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(v) create, incur, assume or guarantee Indebtedness of an Acquired Company in excess of $5,000,000, except for (A) borrowings under an Acquired Company's existing credit facilities incurred in the ordinary course of business, (B) in connection with Sellers' and their Affiliates' utility money pool program, (C) refinancing of existing Indebtedness of an Acquired Company in the ordinary course of business and (D) borrowings under the Debt Agreements;

(vi) issue, sell, pledge or dispose of, or agree to issue, sell, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, convertible securities or other rights of any kind to acquire any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests rights of any kind or any debt securities which are convertible into or exchangeable for such capital stock;

(vii) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(viii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling or (F) amend, in any material respect, any material Tax Return, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(ix) dissolve, adopt a plan of complete or partial liquidation, or effect a restructuring or recapitalization, with respect to an Acquired Company;

(x) settle or compromise any material Action involving monetary damages to be paid by an Acquired Company in excess of $5,000,000 in the aggregate during any 12-month period, or enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in any way relating to the business of an Acquired Company, except as permitted pursuant to Section 4.5(f) with respect to any rate case, rate update, rate rider or other rate or regulatory accounting proceeding;

(xi) subject any material asset to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing; or

(xii) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller

has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other than those which are employed by or perform services for the Acquired Companies. Notwithstanding anything herein to the contrary, Sellers and their Affiliates may negotiate, extend or renew any such Collective Bargaining Agreements in their sole discretion. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of the attorney-client privilege or violate any Contract or applicable Law. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, subject such Seller to risk of liability or otherwise violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996 and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information").

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may reasonably be necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement and any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals), and (v) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals). Each Party shall, and shall cause its Affiliates to, consult

and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.[67]

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement, the Mitchell Plant Proceedings and the consummation of the transactions contemplated hereby and thereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Proceedings); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated hereby, each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and to take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other

[67] Note to Draft: CFIUS requirements to be addressed for non-U.S. bidders, if applicable.

than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser

shall, in connection with obtaining the Required Regulatory Approvals, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing.

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 of the FPA on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Purchaser hereby recognizes and acknowledges that the Acquired Companies are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively. Without limiting the generality of the foregoing, nothing in this Agreement shall prohibit the Acquired Companies from initiating, continuing to pursue, appealing, settling or entering into any stipulation with respect to the Mitchell Proceedings, any rate case, rate update, rate rider or other rate or regulatory accounting proceeding. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and shall consider any timely comments with respect thereto by Purchaser, provided that Purchaser acknowledges and agrees that Kentucky Power, Wheeling and Sellers shall be entitled to make any and all decisions in respect of such proceedings. Purchaser hereby recognizes and acknowledges that the Acquired Companies, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC and FERC concerning the Acquired Companies' ongoing operations, may find it also appropriate to discuss the transactions contemplated by this Agreement or the Mitchell Proceedings (including responding to inquiries as to the potential effects of such transactions on the ongoing operations under discussion), without Purchaser being present or participating in such discussions, and without any breach resulting therefrom by Sellers of their obligations under this Section 4.5. In the event of such discussions by the Acquired Companies with the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such discussions concerning the transactions under this Agreement.

4.6 Consents. Sellers shall, and shall cause the Acquired Companies to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any Liability to obtain any consents of third parties contemplated by this Section 4.6, and the failure to receive any Additional Regulatory Filings and Consents or, if

applicable, such third party consents shall not be taken into account with respect to whether any condition to the Closing set forth in Article VII shall have been fulfilled. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law, court process or by obligations pursuant to any listing agreement with any national securities exchange or national securities quotation system. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Sellers shall, and shall cause their Affiliates to, (i) use commercially reasonable efforts, including using commercially reasonable efforts to obtain applicable regulatory authorizations, to sever, replace, cause each Acquired Company to withdraw from or terminate all Contracts (other than those Contracts identified on Section 4.8(a) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") on or prior to the Closing and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance, replacement, withdrawal by the Acquired Companies from or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, and the Parties shall use commercially reasonable efforts to obtain any applicable regulatory authorizations with respect to such Contract after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) Except as contemplated in Section 4.16 and Section 4.8(a), Sellers shall not be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any such amounts or balances outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working

Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(c) During the Interim Period, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use commercially reasonable efforts to replace or bifurcate each Shared Contract with or into stand-alone Contracts, one for the applicable Seller or its applicable Affiliates and one for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, Sellers and Purchaser shall use commercially reasonable efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(c), commercially reasonable efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser (including the Acquired Companies after the Closing) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates have any obligation to any third party or to Purchaser with respect to any Shared Contract other than as described in this Section 4.8(c).

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that Sellers shall consult with Purchaser prior to any Seller or any of its Affiliates entering into or executing any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for

which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all amounts paid or incurred by Sellers or their Affiliates to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any of their Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of fees Sellers or its applicable Affiliate would have incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Certain Intellectual Property. As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to (a) within thirty (30) days after the Closing Date cease using any name, logo, symbol, trademark, trade name, service mark, or design or other Intellectual Property owned by Seller or any of its Affiliates (other than the Acquired Companies) (the "Seller Intellectual Property") and used in connection with the business of the Acquired Companies; and (b) within sixty (60) days after the Closing Date, remove the name, logo, symbol, trademark, trade name, service mark, or designs included in Seller Intellectual Property ("Seller Marks") from any properties or assets relating to the Acquired Companies and dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Intellectual Property as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines in effect for the Seller Intellectual Property as of the Closing Date (as may be amended by Sellers from time to time following the Closing). Purchaser shall not use the Seller

Intellectual Property in a manner that may reflect negatively on such Seller Intellectual Property or on any Seller or its Affiliates.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements, Sellers, on behalf of themselves and each of their respective Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, contracts, agreements, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Sellers shall not make, and Sellers shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, contracts, agreements, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, ~~or~~ any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating separate emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent permitted by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver under the NSR Consent Decree unrelated to Mitchell or Big Sandy or any other obligations under such NSR Consent Decree.

4.14 [Purchaser Equity Commitment. Purchaser shall use (and shall cause each of its Affiliates to use) its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to obtain the funding under the Equity Commitment on the terms and conditions described in the Equity Commitment, which shall include using reasonable best efforts to: (a) satisfy on a timely basis all terms, conditions, representations and warranties applicable to Purchaser set forth in the Equity Commitment, (b) maintain in full force and effect the Equity Commitment, (c) fully enforce its rights under the Equity Commitment to cause [___] to fund on or prior to the Closing Date the Equity Financing, and (d) upon satisfaction or waiver of the conditions set forth in the Equity Commitment, consummate the transactions set forth in the Equity Commitment at or prior to the Closing. Notwithstanding anything in this Agreement to the contrary, Purchaser shall not amend, modify

or supplement any of the terms or conditions of (or otherwise waive any rights under) the Equity Commitment or otherwise terminate the same without the prior written consent of Sellers.][78]

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser shall procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement, issued to Purchaser in connection with this Agreement with binding effective as of the date of this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. The R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a).

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

[78] Note to Draft: Section 4.14 to be included if Purchaser itself is not a creditworthy entity.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their commercially reasonable efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as

any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use commercially reasonable efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the date that is 120 days after the date of this Agreement to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use commercially reasonable efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use commercially reasonable efforts to cause any property, assets, Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto

that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell ~~Assets~~Operator Asset that ~~remain~~is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting ~~a~~any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to make an offer of employment to the Mitchell Employees prior to the Closing Date, to be effective as of the Closing Date or such earlier date as the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including those requested as part of the Mitchell Plant Proceedings. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee that accepts its offer of employment.

(d) Sellers and Purchasers acknowledge that prior to the Effective Date Wheeling and Kentucky Power initiated the Mitchell Plant Proceedings by filing with the WVPSC and KPSC, respectively, for approval of the replacement of the Existing Mitchell Plant Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, to be effective on or prior to the Closing. Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to such agreements as are reasonably necessary to comply with any regulatory orders or rulings related thereto entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the necessary approvals of each of the KPSC, WVPSC and any other Government Entity, including FERC, in respect of those agreements have been obtained prior to the Closing Date. Notwithstanding anything to the contrary herein Sellers and their Affiliates shall have the right to prosecute any petitions, declarations or filings during the Interim Period in furtherance of the rulings contemplated by the Mitchell Plant Proceedings.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee";

(b) Purchaser shall, or shall cause one of its Affiliates to, as a condition of the transactions contemplated by this Agreement, (i) recognize Local 978, International Brotherhood of Electrical Workers as collective bargaining representative for the Covered Employees, in their respective bargaining units, and recognize the continued validity of the Collective Bargaining Agreements applicable to the Covered Employees immediately effective upon the Closing Date, (ii) abide by and agree to honor the terms and conditions of the Collective Bargaining Agreements including all Liabilities and obligations arising on and after the Closing Date under or in any way related to such Collective Bargaining Agreements, including seniority status, and (iii) indemnify and hold harmless each Seller and its Affiliates with respect to any Claims, obligations and Liabilities attributable to or arising under the Collective Bargaining Agreements on and after the Closing Date; and

(c) Purchaser shall, or shall cause one of its Affiliates to, as a condition of the transactions contemplated by this Agreement on and after the Closing Date, provide Covered Employees such benefits as may be required under the assumed Collective Bargaining

Agreements (which, for the avoidance of doubt, shall be provided under benefit plans of Purchaser or its Affiliates) or as may be negotiated and accepted by Purchaser and the applicable union.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate which is at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to Closing;

(b) bonus and incentive opportunities (including target and maximum payouts), which are no less favorable in the aggregate than the bonus and incentive opportunities (including target and maximum payouts) provided to the Non-Covered Employee immediately prior to Closing (provided, that any equity-based compensation opportunity provided prior to the Closing Date may be provided as cash compensation opportunities following Closing);

(c) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(d) other employee benefits (other than severance benefits, which shall be provided as set forth in Section 5.6) that are substantially comparable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion

thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7 with a minimum of twenty-six (26) weeks' base pay), with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall not be less than such Continuing Employee's target bonus in respect of such fiscal year under the applicable Seller Benefit Plan.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 Post-Closing Date Employment Claims. Except as expressly provided in this Agreement, Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any and all liability of any kind or nature involving or related to the employment of the Continuing Employees by Purchaser or its Affiliates after the Closing, including any liability related to any employee benefit plan sponsored or maintained by Purchaser or its ERISA Affiliates after the Closing or the termination of employment from Purchaser or one of its Affiliates on or following the Closing Date.

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the event giving rise to the claim occurs (the "Workers Compensation Event"). The date a Workers Compensation Event occurs shall be determined in accordance with the terms of the applicable Seller Benefit Plan and/or any applicable Laws in respect of workers compensation.

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act or any similar state Law) occurs prior to the Closing without complying with the WARN Act or any similar state Law. Purchaser agrees to provide any notice required under the WARN Act

or any similar state Law with respect to any "plant closing" or "mass layoff" affecting Acquired Company Employees that may occur on or after the Closing Date or arise, in whole or in part, as a result of the transactions contemplated by this Agreement. On or after the Closing Date, Purchaser shall not effectuate a "plant closing" or "mass layoff" or any other similar triggering event under the WARN Act or any other applicable Law affecting any Continuing Employee, except in compliance with the WARN Act or any similar state Law. Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any liability, damages, fines or costs (including reasonable attorneys' fees) under the WARN Act or any similar state Law for any "plant closing" or "mass layoff" occurring on or after the Closing Date or arising, in whole or in part, from the actions (or inactions) of Purchaser or its Affiliates on or after the Closing Date or as a result of the transactions contemplated by this Agreement.

5.15 Employee Communications. Sellers shall use commercially reasonable efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions

contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to any solicitation (or any hiring as a result of any solicitation) (x) that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, (y) of any person who is no longer employed by Sellers, Purchaser or their Affiliates as applicable or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees.

5.18 Code Section 409A. The Continuing Non-Covered Employees shall be treated, for purposes of Section 409A of the Code, as having a separation from service with Sellers and their Affiliates as of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the AEPSC Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of AEPSC Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such AEPSC Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such AEPSC Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment).

ARTICLE VI

TAX MATTERS

6.1 Withholding. Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any such amounts, such Person shall use its commercially reasonable efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its commercially reasonable efforts to

cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to (i) require any Seller (or any of its Affiliates) to provide cooperation, documentation or information, or retain records with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, except to the extent any such Tax-related information relates solely to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser shall pay, when due, and be responsible for, any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). Purchaser shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes and any Seller, if required by applicable Law, shall join in the execution of such Tax Return. If any Seller is required to file any such Tax Return and pay the Transfer Taxes shown as due thereon, Purchaser shall reimburse such Seller for such Transfer Taxes no later than five (5) days prior to the due date for such Tax Return.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1 (the first sentence only), Section 2.2 and Section 2.3 shall be true and correct in all material respects as of the Closing, as if made at and as of the Closing (or, if made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 (shall be true and correct in all but material respects as of the Closing as if made at and as of the Closing (or, if made as of a specific date, as of such date)) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its

Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the condition to the Closing set forth in Section 7.1(b), has not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement and; provided, further, that if the Outside Date would otherwise occur during the pendency of the notice period contemplated by Section 8.3(a)(ii) then the Outside Date shall be automatically extended until the expiration of such notice period;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if Purchaser has breached its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that: ~~(i)~~ (i) this Agreement is terminated pursuant to ~~(A)~~(A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity) or Section 7.1(b) have not been satisfied, ~~(B)~~(B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity), ~~(C)~~(C) Section 8.1(b)(iv) or ~~(D)~~(D) Section 8.1(c) and ~~(ii)~~(1) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 (written notice of which failure to perform was provided by Purchaser to Sellers at least thirty (30) days prior to the termination of this Agreement), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay to Sellers an amount equal to $[_____][~~8~~9] (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee

[redacted]

shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and any other remedies available at law or in equity for Willful Breach; provided, however, that under no circumstances shall Sellers be entitled to receive both a grant of specific performance that results in a Closing and the Termination Fee. Except in the case of Willful Breach, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with the costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser [or Guarantor] or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by Sellers and Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach. For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement

by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder), and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. In no event shall Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed an amount equal to ten percent (10%) of the Base Purchase Price, and in no event shall Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed the amount of the Base Purchase Price.

9.2 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, Purchaser covenants, agrees and acknowledges that neither

Purchaser, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on such liabilities, obligations, commitments against Sellers, the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any of a Seller or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), through Sellers or otherwise, whether by or through a claim by or on behalf of a Seller against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.3 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement to the contrary, except with respect to Willful Breach, Fraud or as may be included in the amount of the Purchase Price or the Termination Fee, no Party shall have any liability pursuant to this Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:

AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

[Company]
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers).

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees and expenses and any third party fees, costs or other expenses incurred in connection with any filings or submissions or obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses

incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses unless expressly otherwise contemplated in this Agreement.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT

BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of

any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR

OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part,

with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives either through access to an online data room maintained by Sellers in connection with the transactions contemplated by this Agreement or through direct correspondence with the Person requesting such information.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, ~~INC.~~LLC

By: _____

Name:

Title:

[PURCHASER]

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

~~1.~~ 1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (an "AEPSC Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, action, demand, suit, arbitration, litigation, proceeding or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, [Purchaser Guaranty,] ~~Mitchell Plant Ownership Agreement, Mitchell Plant O&M Agreement~~ and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York is closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the end of the day of the Closing Date, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power on or prior to the Closing Date pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the Capital Expenditures Amount.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash, cash equivalents and marketable securities of the Acquired Companies, excluding any restricted cash. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of immediately prior to the Closing, determined in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II and excluding trade accounts payable or other liabilities included in Net Working Capital.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount (the amounts described in (a) through (f) the "Closing Payment Adjustment") .

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code

and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated [_____], 2021, by and between AEP and [_____].

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions taken or not taken to respond to any impact or probable impact on the business of the Acquired Companies due to the COVID-19 Pandemic or measures taken to comply with Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity relating to the COVID-19 Pandemic, including the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), in each case, including reasonable changes in relationships with employees, customers and suppliers.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, claims, charges, monetary encumbrances, or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all similar Laws (including implementing regulations) of any Governmental Entity having jurisdiction over the assets in question addressing pollution or protection of the environment.

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities necessary under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and American Electric Power Service Corporation, a New York corporation, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before

the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the end of the day of the Closing Date (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the Closing Date divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in justifiable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean (a) any of the practices, methods and acts engaged in or approved by a significant portion of the electric generating, transmission or distribution industries during the relevant time period or (b) any of the practices, methods or acts that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather to be acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States or any state, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined as or included in the definition of "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic

substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, including obligations evidenced by a note, bond, debenture or similar instruments; (b) any obligations in respect of interest rate hedging arrangements; (c) any reimbursement obligations in respect of letters of credit or bank guarantees that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; and (f) any guarantee by such Person of any obligations of another Person of the types described in the foregoing clauses (a) through (e).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission.

"Law" shall mean all laws, statutes, rules, regulations, ordinances, Orders, and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Loss" shall mean ~~means~~ any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys,

accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that none of the following Effects shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action required or permitted to be taken by an Acquired Company pursuant to this Agreement or consented to in writing by each Party or any Action arising out of or related to this Agreement, or any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval and the results of such action, including any Effect resulting from any term or condition in any Order relating to any Required Regulatory Approval or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand; (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; (x) any change in customer usage patterns; (xi) any Effect arising from any rate cases related to the Acquired Companies; (xii) any Effect that results from any shutdown or suspension of operations at any third-party facilities from which an Acquired Company obtains electricity; (xiii) any new power plant entrants and their effect on pricing or transmission; and (xiv) any pending, initiated or threatened litigation pertaining to the transactions contemplated by this Agreement.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real

estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant Proceedings" shall mean, collectively, the regulatory proceedings in WVPSC Docket Number [ ] and KPSC Docket Number [ ] relating to the replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

"Mitchell Plant O&M Agreement" ~~means~~shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, ~~substantially~~ in a form consistent with the ~~form~~regulatory approvals obtained pursuant to the Mitchell Plant Proceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" ~~means~~shall mean the ownership agreement to be executed by Kentucky Power, ~~Successor Operator~~Wheeling and AEPSC and dated as of or prior to the Closing Date, ~~substantially~~ in a form consistent with the ~~form~~regulatory approvals obtained pursuant to the Mitchell Plant Proceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit B.

"Net Working Capital" ~~means~~shall mean the net working capital of the Acquired Companies calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational

documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, approvals, registrations, authorizations, consents or Orders of any Governmental Entity (other than the Required Regulatory Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t)

Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"Pre-Closing Tax Period" shall mean any taxable period ending on or prior to the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company, including buildings, structures, pipelines, other improvements, and fixtures located thereon (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall have the meaning ascribed to such term in the Confidentiality Agreement.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable

provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" ~~means~~shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" ~~means~~shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto provides as of the date hereof and/or expects to provide as of or after the Closing Date more than an immaterial amount of products, services or Intellectual Property to (A) any of Acquired Companies, and (B) a Seller or any of its Affiliates (other than an Acquired Company) Sellers' Affiliates; provided, that the definition of Shared Contract" shall exclude any corporate-level services provided by a Seller or its Affiliates as contemplated in the Transition Services Agreement.

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean $[_____].[9][10]

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to and in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated by this Agreement, amounts included in Indebtedness or the Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, and (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing

[9][10] Note to Draft: To be provided separately to bidders.

authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"TransCo Intercompany Notes" ~~means~~shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" ~~means~~shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia.

~~2.~~ 2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP LTD Plan	5.19
AEPSC Employee	Definition of Acquired Company Employee
AEP TransCo	Preamble
Agreement	Preamble
Balance Sheet Date	2.5(c)
Business Separation Plan	4.16(f)
Closing	1.1

Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
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Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
[Equity Commitment	3.7(c)]
[Equity Financing	3.7(c)]
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
[Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
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Material Contracts	2.8(a)
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Morgan Lewis	1.3(a)
NERC	4.18
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Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
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APPENDIX II

CALCULATION OF NET WORKING CAPITAL[10][11]

[10][11] Note to Draft: ~~To be provided~~Provided separately to bidders.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

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Moved to	0
Style changes	0

Format changes	0
Total changes	434

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

[_____]

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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Exhibit B: Mitchell Plant Ownership Agreement[1]
Exhibit C: Mitchell Plant O&M Agreement[2]
Exhibit D: Compliance Agreement

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Sellers Disclosure Letter
Purchaser Disclosure Letter

[1] [2] Note to Draft: These will be the forms included in the separate regulatory filings to be made in West Virginia and Kentucky (which may be made prior to signing) by Wheeling and Kentucky Power, respectively. **Note to AEP**: Subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and [_____], a [_____] ("Purchaser").[~~3~~2] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

[~~3~~2] Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity. **Note to AEP**: We are pleased to confirm that Algonquin Power & Utilities Corp. will guaranty and fully backstop the purchase price and other Purchaser obligations under the SPA through Closing. Purchaser is currently contemplated to be Liberty Utilities Co.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the ~~third~~[last Business Day of the calendar month in which the date that is the][3] third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at ~~11:59 p~~12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:[4]

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) certificates evidencing the Shares, duly endorsed in blank or with stock powers duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

[3] **Note to AEP**: Parties to discuss alternative mechanic so that there is not an undue delay if the closing conditions are satisfied early in the month.

[4] **Note to AEP**: To discuss inclusion of other closing deliverables, including (i) payoff letters with respect to any existing Indebtedness of the Acquired Companies to be paid off at the Closing and (ii) evidence of termination of intercompany arrangements / related party agreements.

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(C) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(D) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(E) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(F) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than ~~two~~five (~~2~~5) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, and (iv) the Estimated Capital Expenditures Amount (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount pursuant to Section 1.3.

(b) [The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.][5]

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the Final Capital Expenditures Amount~~, in each case as of the Closing~~ (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

[5] **Note to AEP**: Subject to further review. Among other things, we assume accounting methodologies will make clear that the Mitchell purchase price components (e.g., assets, liabilities) will only be taken into account on a 50% basis.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) become final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement become final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that ~~would~~are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or the Final Capital Expenditures Amount or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to [_____] or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the Final Capital Expenditures Amount that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent

Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement." and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness and the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the ~~sum~~difference (which may be a positive or negative amount) of the ~~difference between (a)(i) the Final Closing Cash and (ii) the Estimated Closing Cash, (b)(i) the Final Net Working Capital and (ii) the Estimated Net Working Capital, (c)(i) the Final Closing Indebtedness and (ii) the Estimated Closing Indebtedness, and (d)(i) the Final Capital Expenditures~~Final Payment Amount ~~and (ii)~~*minus* the ~~Estimated Capital Expenditures~~Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers ~~(or one or more of Sellers' designees)~~ shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to

the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS[6]

Except as set forth in ~~(a) the reports, schedules, forms, statements and other documents filed by AEP with, or furnished to, the SEC and publicly available on or following January 1, 2019 (excluding any disclosures of factors or risks contained or references therein under the captions "Risk Factors" or "Forward-Looking Statements" and any other similar general, predictive or cautionary statements), or (b)~~ the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. ~~The~~Each of the Acquired Companies ~~have~~has all requisite corporate power and authority to carry on ~~their~~its respective businesses as now being conducted and ~~are~~to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and ~~are~~is in good standing as a foreign ~~corporations~~corporation or company in each jurisdiction where the conduct of ~~their businesses~~its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. ~~The~~None of the Acquired Companies ~~do not~~ own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies ~~in~~(including all amendments thereto), and each such instrument is in full force and effect ~~as of the Effective Date~~.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable ~~and owned by the applicable Seller,~~, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo ~~have~~has good ~~and~~, valid and marketable title to, and ownership, of record and beneficially, ~~to~~of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding ~~common~~ shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies.

[6] NTD: Comments assume a customary Representations and Warranties insurance policy with a full materiality scrape and no unusual exclusions. Parties to discuss if any comments create an undue scheduling burden on Seller, which is not the intent.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller ~~shall have~~has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and their Affiliates of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (c) notice and judicial approval of a modification to the NSR Consent Decree or (d) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at

Closing be a party, nor the consummation by Sellers of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, or (ii) ~~liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date, (iii)~~ liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract ~~or (iv) liabilities or obligations that have not had, and would not reasonably be expected to have,~~

~~individually or in the aggregate, a Material Adverse Effect~~(in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky TransCo) and to maintain asset accountability, (iii) access to its material property and material assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. Sellers have made available to Purchaser true, complete and correct copies of the respective books, records and accounts of the Acquired Companies in all material respects and the Acquired Companies' Financial Statements were derived from and are consistent with such books and records. None of any Seller, any Acquired Company, or any representative or other Person acting on behalf of any of the foregoing (including through a consultant or other third party) has established or maintained any unrecorded fund or asset or made any false or mislabeled entries on any books and records of any Acquired Company.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date ~~through the Effective Date~~, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. Since the Balance Sheet Date, none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to the Closing.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement or bifurcated arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements, ~~the Intercompany Arrangements (or alternative replacement arrangements set forth on Section 4.8(a) of the Sellers Disclosure Letter)~~ and (c) as set forth on Section 2.7 of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or advisable to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.[7]

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

[7] **Note to AEP**: Scope, including thresholds, to be discussed and confirmed, including to ensure appropriate disclosure (and diligence backstop) without creating an undue scheduling burden.

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $~~5,000,000~~[250,000] annually or, in ~~any of~~ the ~~three calendar years preceding the date of this Agreement~~aggregate, $[1,000,000] annually, and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $~~5,000,000~~[250,000] annually or, in ~~any of~~ the ~~three calendar years preceding the date of this Agreement~~aggregate, $[1,000,000] annually, and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $~~5,000,000~~[250,000] individually or $[1,000,000] in the aggregate or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $[250,000] individually or $[1,000,000] in the aggregate;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $[250,000] individually or $[1,000,000] in the aggregate;

(v) all Intercompany Arrangements;

(vi) ~~(iv)~~ all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) ~~(v)~~ all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area ~~(other than limitations that in the aggregate are immaterial)~~or (y) contain any obligation to use or purchase any good or service exclusively from one or more Persons;

(viii) all Contracts relating to any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies;

(x) all material real property leases and all Master Leases;

(xi) all material Shared Contracts;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts relating to the development, purchase or construction of new

generation, other than Contracts for "spot" purchases and sales from or into the market on arm's-length terms with a durational term of effectiveness of less than 12 months;

(xiv) all material Contracts relating to fuel supply or transportation;

(xv) ~~(vi)~~ all Commercial Hedges having a notional value or involving aggregate consideration or aggregate payment obligations over the remaining term of such Contract in excess of $~~5,000,000~~[250,000];

(xvi) ~~(vii)~~ all Collective Bargaining Agreements;

(xvii) all Contracts pursuant to which (A) an Acquired Company is granted any license, covenant or other right in, to or under a third party's Intellectual Property, or that otherwise relates to the use, practice or exploitation of a third party's Intellectual Property in the operation of an Acquired Company's businesses (other than with respect to any Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement) (each such Contract, an "In-License") or (B) a third party is granted any license, covenant or other right in, to or under any Owned Intellectual Property (other than non-exclusive licenses granted in the ordinary course of business); and

(xviii) ~~(viii)~~ all partnership, joint venture and joint ownership Contracts.

(b) ~~Assuming the due authorization, execution and delivery of each Material Contract by the other parties thereto,~~ (i) ~~other~~Other than any Intercompany Arrangements severed~~, replaced, from which an Acquired Company has withdrawn or that have been~~ or terminated in accordance with Section 4.8(a), each ~~such~~ Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, ~~and~~ (ii) ~~to the Knowledge of Sellers,~~ neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, ~~any such~~and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, third-party Intellectual Property licensed or otherwise available to or used, practiced or exploited by the Acquired Companies or by their respective businesses pursuant to an In-License, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement, constitute ~~a scope~~all of the Intellectual Property ~~suitable~~necessary to operate the business of the Acquired Companies as operated as of the Effective Date. ~~To the Knowledge of Sellers~~Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the

businesses conducted by the Acquired Companies as of the Effective Date, do not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and, to the Knowledge of Sellers, no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. The Acquired Companies (and the Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) there has been no material breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for, and perform in accordance with their documentation and functional specifications and otherwise as required in connection with, the operation of the Acquired Companies and their respective businesses, and have not malfunctioned or failed in any material respect.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened ~~in writing~~ against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties ~~and~~or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect~~; provided, however, that this Section 2.11, does not address employee benefit matters, Taxes and environmental matters, which are exclusively addressed by Section 2.13, Section 2.15 and Section 2.16, respectively~~. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) good and valid leasehold interests in, or a valid contractual right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof, is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default on the part of any Acquired Company or, if applicable, its Subsidiary or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions

contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Partnership Material Adverse Effect, there are no condemnation proceedings pending or, to the knowledge of, threatened with respect to any Real Property.

(c) An Acquired Company is the sole owner and has good and valid title to, or in the case of leased personal property assets, valid leasehold interests in, or otherwise has rights in, all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business as currently conducted and proposed to be conducted after the Closing Date, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that ~~would reasonably be expected to~~could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates ~~(other than~~becoming a Liability of the Acquired Companies~~) becoming a Liability~~ or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any ~~material~~ payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee, (ii) ~~materially~~ increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee or (~~iii~~iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) None of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) No Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the knowledge of an Acquired Company, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) ~~(g)~~ This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, in each case in the ordinary course of business, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Prior to the ~~Closing~~date of this Agreement, Sellers ~~shall provide~~have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, ~~to the Knowledge of Sellers, neither~~none of Seller or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, ~~except as would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect~~since January 1, 2018, (i) there ~~are~~have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened ~~in writing~~ to be brought or filed with the National Labor Relations Board, and (ii) there ~~are~~have been no pending or threatened labor union organizing campaigns, with respect to Acquired Company Employees. ~~From the Balance Sheet Date until the Effective Date, except as would not have or would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect~~Since January 1, 2018, there ~~are~~have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened ~~in writing~~ against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation of sexual harassment or sexual assault, nor, to the Knowledge of Sellers, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is or may be subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company ~~is in material compliance with all applicable Laws relating to the collection and withholding of Taxes.~~has deducted, withheld and timely paid to the appropriate Governmental Entity all Taxes required to be deducted, withheld or paid in connection with amounts or owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has complied with all reporting and record keeping requirements.

(h) ~~The representations and warranties set forth in this Section 2.15, along with the representations and warranties set forth in Section 2.13 that expressly relate to Taxes, are the sole and exclusive representations and warranties set forth in this Agreement with respect to Taxes.~~No Acquired Company has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) No Acquired Company (i) has ever been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than any such group the common parent of which is AEP), (ii) is not a party to and has no obligation under any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) does not have liability for the Taxes of any other Person except a member of a Tax group filing of which AEP is the common parent under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise.

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iii) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law), or any election under Section 965 of the Code.

(k) No Acquired Company has been a United States real property holding company within the meaning of Code Section 897(c)(2) during the period specified in Section 897(c)(1)(A)(ii).

(l) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(m) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(n) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

(o) No Acquired Company has deferred any payroll or employment Taxes or claimed any other benefit or relief pursuant to the CARES Act.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received

any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, ~~to the Knowledge of Sellers,~~ there is and has been no Release by any Acquired Company from, in, or on any of the Real Property ~~(except as permitted pursuant to Environmental Laws or Environmental Permits)~~ or at any other location for which any Acquired Company may be liable, and Hazardous Materials are not otherwise present at such location in quantities or under circumstances that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation or adversely affect the use of any Real Property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) ~~This Section 2.16 contains the exclusive representations and warranties of Sellers with respect to environmental matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.~~Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all reports of any environmental or health-and-safety compliance audits performed within the past five years, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of the Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company ~~is~~are in compliance in all material respects with ~~its~~each such insurance ~~policies~~policy and ~~is~~are not in default under any such policy, (ii) each such policy is in full force and effect ~~and~~, (iii) all premiums have been paid in full, (iv) all matters that could be the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been

properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage in respect of any such claim and (v) no written notice of cancellation, termination or nonrenewal ~~(other than written notices of nonrenewals received in the ordinary course of business)~~ has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, employees, agents, and other Persons acting on behalf thereof (each, an "Acquired Company Representative") is and at all times has been in compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 ~~2.20~~ No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER[8]

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of [___]; Purchaser has all requisite power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Additional Regulatory Filings and Consents, (c) notice and judicial approval of a modification to the NSR Consent Decree, (d) the filing by Purchaser and Sellers of a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving the CFIUS Clearance or (~~d~~e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (~~d~~e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any

[8] NTD: To be conformed to the corresponding representations of Sellers, as applicable.

breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its properties or assets are bound or (iii) violate any Law applicable to Purchaser or any of their Affiliates or any of their respective properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.[4]

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

~~(a) Purchaser and its respective directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").~~

(a) ~~(b)~~ Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a ~~country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "~~Sanctioned Country~~")~~; (ii) ~~the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("~~SDN~~") and Blocked Persons List, owned fifty percent~~a Prohibited Party or ~~more,~~(iii) engaged in ~~the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "~~Prohibited Party~~"); or (iii) engaged in~~ dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has~~,~~ available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this

[4] ~~Note to Draft: Non-U.S. bidders to address CFIUS requirements, if applicable.~~

Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) ~~[~~Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by [_____] (the "Guarantor") in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.~~]~~[9]

~~(c) [Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding equity commitment letter from [_____], pursuant to which, and subject to the terms and conditions of which, [_____] has agreed to provide equity financing ("Equity Financing") to Purchaser in connection with the transactions contemplated by this Agreement (the "Equity Commitment"). The Equity Commitment is a legal, valid and binding obligation of Purchaser and the other parties thereto. The Equity Commitment is in full force and effect, and has been withdrawn, rescinded or terminated or otherwise amended or modified in any respect, and no such amendment, rescission, termination or modification is contemplated. The net proceeds from the Equity Commitment will be sufficient for Purchaser to consummate the transactions contemplated by this Agreement, including making all payments required pursuant to Article I and payments of any fees and expenses contemplated to be paid by Purchaser under this Agreement and making or causing to be made the payments described in Section 4.16 if and when required in accordance with the applicable Debt Agreement or otherwise required pursuant to Section 4.16. As of the date of this Agreement, there are no side letters, understandings or other agreements or arrangements relating to the Equity Commitment to which Purchaser, [_____] or any of their Affiliates is a party and that could (x) impose any new or additional or more restrictive condition precedent to the funding of such Equity Commitment, (y) result in any delay in the funding of such Equity Commitment or (z) result in any reduction to the aggregate amount available under the Equity Commitment on the Closing Date.]~~[5]

(c) ~~(d) After~~Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date

[9] **Note to AEP**: Algonquin Power & Utilities Corp. will be the Guarantor. We are also contemplating a debt commitment sized large enough to pay the full purchase price and may also raise equity. Once financing plans are finalized, we may add customary cooperation provisions to the extent necessary.

~~[5] Note to Draft: Section 3.7(b) and (c) to be included, as applicable, if Purchaser itself is not a creditworthy entity.~~

hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (4) the satisfaction of the conditions set forth in Article VII and (5) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies (assuming the accuracy of the representations in Article II) will (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or

warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.[10]

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) in connection with actions taken ~~in response to~~reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operation ~~matters~~emergencies (provided that Sellers shall provide notice to Purchaser of any such event as soon as reasonably practicable), (3) for any COVID-19 Measures~~, (4) as may be required in accordance with Good Utility Practice~~ (provided, that Sellers shall first notify Purchaser (including by providing reasonable details thereof) and reasonably consult with Purchaser in good faith at least five (5) Business Days prior to taking any such COVID-19 Measure), or (~~5~~4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter[11] (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice),[6] during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and

[10] NTD: Purchaser's additional comments to be provided following completion of due diligence. Comments will take into account scheduling so as not to create an undue scheduling burden.

[11] NTD: Schedule 4.1 to be modified to include a description of the Mitchell regulatory filings that will be filed with the KPSC by Kentucky Power in connection with the request for approval of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

~~[6] NTD: Schedule 4.1 to be modified to include a description of the Mitchell regulatory filings that will be filed with the KPSC by Kentucky Power in connection with the request for approval of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.~~

other parties having business dealings with each Acquired Company[12] and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the ~~material~~ assets of an Acquired Company, other than (A) the use or sale of inventory ~~or Real Property~~ in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with de minimis or no book value in the ordinary course of business, (C) pursuant to Contracts with third parties in effect on the Effective Date that are set forth on Section 4.1(a)(i)(C) of the Sellers Disclosure Letter, [(D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business,][13] (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $[5,000,000][14] in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) ~~(ii)~~ enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments and relinquishments in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be ~~fully~~ performed prior to the Closing~~, (D) Contracts~~ entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (~~E~~D) [Commercial Hedges entered into in the ordinary course of business~~, (F) amendments to the Collective Bargaining Agreements entered into in the ordinary course of business of Sellers and their Affiliates~~][15], (~~G~~E) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)), (H) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and

[12] **Note to AEP**: Discuss timing and approach with respect to Rockport Deferred Regulatory Asset, ROE true-up and related filings.

[13] **Note to AEP**: Discuss, including in the context of net working capital.

[14] **Note to AEP**: Discuss, including in the context of what is ordinary course.

[15] **Note to AEP**: Discuss, including in the context of what is ordinary course.

the Mitchell Plant O&M Agreement, [and (~~I~~F) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter][16]);

(iv) ~~(iii) materially increase the compensation or benefits of any Acquired Company Employee earning over $125,000 per year~~ except ~~(A)~~ as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement, (~~B~~A) ~~for~~materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (~~C~~y) as expressly contemplated by Article V); (B) hire or terminate any Acquired Company Employee at the Vice President level (or its equivalent) or higher, or transfer any Acquired Company Employee into or out of the Business; (C) grant any severance or termination pay to any Acquired Company Employee; (D) adopt, amend, or terminate any Seller Benefit Plan or (E) loan or advance any money or any other property to any Acquired Company Employee;

(v) (A) recognize any union or other labor organization as the representative of any of the employees of the Acquired Companies, or (B) enter into, extend or renew (including by automatic extension or renewal), materially amend or terminate any Collective Bargaining Agreement applicable to employees of any Acquired Company, in each case except as required by applicable Law;

(vi) implement or announce any employment-site closings or reductions-in-workforce reasonably expected to result in employment losses sufficient to trigger the notice requirements of the WARN Act;

(vii) ~~(iv)~~ (A) amend or propose to amend ~~an~~any Acquired Company's Organizational Documents ~~in any material respect~~(except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock ~~of~~or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) ~~(v)~~ create, incur, assume or guarantee Indebtedness of an Acquired Company ~~in excess of $5,000,000~~, except for ~~(A)~~ borrowings up to the current limits thereof incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities ~~incurred in the ordinary course of business~~, (B) in connection with Sellers' and their Affiliates' utility money pool program, ~~(C) refinancing of existing Indebtedness of an Acquired Company in the ordinary course of business~~ and (~~D) borrowings~~C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness;

(x) ~~(vi)~~ issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible ~~securities~~, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any

[16] **Note to AEP**: Discuss, as this exception seems potentially very broad.

debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) ~~(vii)~~ make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any material change to the security or operation of the IT Assets;

(xiii) ~~(viii)~~ except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling ~~or~~, (F) amend, in any material respect, any material Tax Return, ~~in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an~~(G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired ~~Company~~Companies;

(xiv) ~~(ix)~~ dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) ~~(x)~~ settle, discharge or compromise any ~~material~~Action, except for any Action involving monetary damages to be paid by an Acquired Company in excess of $~~5,000,000~~[1,000,000][17] in the aggregate during any 12-month period, or enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case in any way relating to the business of an Acquired Company, ~~except as permitted pursuant to Section 4.5(f)~~including with respect to any rate case, rate update, rate rider or other rate or regulatory accounting proceeding;

(xvi) ~~(xi)~~ subject any material asset to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced by a substantially similar insurance policy with no gap in coverage; or

(xix) ~~(xii)~~ agree or commit to do or take any action described in this Section 4.1(a).

[17] **Note to AEP**: Discuss $1 million threshold, including in the context of what is ordinary course.

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.[18]

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other than those which are employed by or perform services for the Acquired Companies~~. Notwithstanding anything herein to the contrary, Sellers and their Affiliates may negotiate, extend or renew any such Collective Bargaining Agreements in their sole discretion~~. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of ~~the~~its attorney-client privilege or violate any Material Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, ~~subject such Seller to risk of liability or otherwise~~ violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to

[18] **Note to AEP**: To be confirmed/discussed in the context of the capital plan.

its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange (provided, that if permitted by Law, Purchaser agrees to give Sellers prior notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence from any other Person all information and documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange (provided, that if permitted by Law, such Seller agrees to give Purchaser prior notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in

pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), or (v) developed or derived independently by such Seller without the aid, application or use of such information or documents.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may reasonably be deemed by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement ~~and~~ any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.[19]

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby~~,~~ within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a pre-filing version of a joint voluntary notice in respect of the transactions contemplated by this Agreement pursuant to the DPA, and as soon as practicable thereafter, file a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals), and (~~v~~vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable

[19] **Note to AEP**: Regulatory provisions (including Termination Fee) subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.[7]

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement, [the Mitchell Plant Proceedings] and the consummation of the transactions contemplated hereby [and thereby]. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals [and the Mitchell Plant Proceedings]); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated hereby, each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and to take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (i) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of the Purchaser), and to remove references concerning the valuation or other competitively sensitive material or (ii) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Notwithstanding anything to the contrary contained in this Agreement, Purchaser shall control and direct all communications, strategy and timing with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals) or from any third party, as contemplated hereby after considering in good faith all reasonable comments and advice of the Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the

[7] ~~Note to Draft: CFIUS requirements to be addressed for non-U.S. bidders, if applicable.~~

Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to materially adversely affect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, ~~neither Sellers nor~~ Purchaser shall not be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals, take any action (including any of the

actions listed in Section 4.5(c)) or agree to or accept any order, action or regulatory condition of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions, that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, further, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing.

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 of the FPA on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Purchaser hereby recognizes and acknowledges that the Acquired Companies are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively. ~~Without limiting the generality of the foregoing, nothing in this Agreement shall prohibit the Acquired Companies from initiating, continuing to pursue, appealing, settling or entering into any stipulation with respect to the Mitchell Proceedings, any rate case, rate update, rate rider or other rate or regulatory accounting proceeding. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and shall consider any timely comments with respect thereto by Purchaser, provided that Purchaser acknowledges and agrees that Kentucky Power, Wheeling and Sellers shall be entitled to make any and all decisions in respect of such proceedings.~~ Purchaser hereby recognizes and acknowledges that the Acquired Companies, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC and FERC concerning the Acquired Companies' ongoing operations, may ~~find it also appropriate~~be asked to discuss the transactions contemplated by this Agreement ~~or the Mitchell Proceedings~~ (including responding to inquiries as to the potential effects of such transactions on the ongoing operations under discussion~~)~~, without Purchaser being present or participating in such discussions~~, and without any breach resulting therefrom by Sellers of their obligations under this Section 4.5~~. [Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and shall consider any timely comments with respect thereto by Purchaser, provided that Purchaser acknowledges and agrees that Kentucky Power, Wheeling and Sellers shall be entitled to make any and all decisions in respect of such proceedings.][20] In the event of such discussions by the Acquired Companies with the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such

[20] **Note to AEP**: Bracketed language and other Mitchell-related provisions throughout the agreement subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

discussions concerning the transactions under this Agreement [or the Mitchell Proceedings] and coordinate on an appropriate mutually agreeable response.

4.6 Consents. Sellers shall, and shall cause its Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. ~~Notwithstanding~~[Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6~~, and the failure to receive any Additional Regulatory Filings and Consents or, if applicable, such third party consents shall not be taken into account with respect to whether any condition to the Closing set forth in Article VII shall have been fulfilled~~.][21] For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. [22] Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in this Agreement or the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by Purchaser or any of its Affiliates to ratings agencies, actual or potential debt or equity financing sources, insurance brokers and other third-party service providers of Purchaser to the extent necessary or advisable in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, including in order for Purchaser to arrange for an efficient transition of the Acquired Companies. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, (i) ~~use commercially reasonable efforts, including using commercially reasonable efforts to obtain~~

[21] **Note to AEP**: Discuss impact to the Acquired Companies of failure to obtain these approvals (including in that context the failure to obtain FERC 205 approval of the termination of the Mitchell Agreements, notwithstanding that approval of the replacement agreements would be a Required Regulatory Approval).

[22] **Note to AEP**: Parties to discuss contemplated PR plan, including in the context of Purchaser's potential equity financing plans.

~~applicable regulatory authorizations, to sever, replace, cause each Acquired Company to withdraw from or~~sever and terminate all transactions and Contracts (other than those Contracts identified on Section 4.8(a) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance~~, replacement, withdrawal by the Acquired Companies from~~ or termination of such Intercompany Arrangements. ~~To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, and the Parties shall use commercially reasonable efforts to obtain any applicable regulatory authorizations with respect to such Contract after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.~~

(b) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall ~~not~~ be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any ~~such~~ amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(c) During the Interim Period and following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use ~~commercially~~ reasonable best efforts to replace or bifurcate each Shared Contract with or into stand-alone Contracts, one for the applicable Seller or its applicable Affiliates and one for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, Sellers and Purchaser shall use ~~commercially~~ reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(c), ~~commercially~~ reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies ~~after the Closing~~for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party ~~or to Purchaser~~ with respect to any Shared

Contract other than as described in this Section 4.8(c) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that ~~Sellers shall consult with~~, without Purchaser's prior ~~to any~~written consent, neither Seller ~~or~~nor any of its Affiliates ~~entering~~may enter into or ~~executing~~execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased [by more than $25,000,000][23] as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any ~~of their~~such Affiliates make any payment or are obligated to reimburse the issuing party thereof. [In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period).][24] Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their

[23] **Internal Note to AEP**: Discuss threshold and how derived.

[24] **Note to AEP**: Discuss, including in the context of any anticipated issues in obtaining releases.

Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Certain [Intellectual Property]. As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to ~~(a) within thirty (30) days after the Closing Date cease using any name, logo, symbol, trademark, trade name, service mark, or design or other Intellectual Property owned by Seller or any of its Affiliates (other than the Acquired Companies) (the "Seller Intellectual Property") and used in connection with the business of the Acquired Companies; and (b)~~ [within sixty (60) days][25] after the Closing Date, cease using and remove ~~the~~any name, logo, symbol, trademark, trade name, service mark, or designs ~~included in Seller Intellectual Property~~containing or comprising [●][26] ("Seller Marks") from any properties or assets relating to the Acquired Companies and dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller ~~Intellectual Property~~Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines in effect for the Seller ~~Intellectual Property~~Marks as of the Closing Date ~~(as may be amended by Sellers from time to time following the Closing)~~. Purchaser shall not use the Seller ~~Intellectual Property~~Marks in a manner that ~~may~~would reasonably be expected to reflect negatively on such Seller ~~Intellectual Property~~Mark or on any Seller or its Affiliates.[27]

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements~~, Sellers~~ or for Fraud, each Seller, on behalf of ~~themselves~~itself and each of ~~their respective~~its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, ~~contracts~~Contracts, agreements, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. ~~Sellers~~Each Seller shall not make, and ~~Sellers~~each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification,

[25] **Note to AEP:** Discuss practicality and whether this is enough time to scrub the marks, including extent to which used on fixtures or operational assets (e.g., equipment, building signage, etc.).

[26] **Note to AEP**: Please list specific Seller/Affiliate marks.

[27] **Note to AEP**: Parties to discuss and confirm whether there is any shared IP between the sellers and the acquired companies, other than trademarks (trade secrets, patents, unpatented inventions, etc.), where a mutual covenant not to sue on such IP may make sense.

against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, ~~contracts~~Contracts, agreements, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed

that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.[28]

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating ~~separate~~in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent ~~permitted~~not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under

[28] **Note to AEP**: These terms are subject to further review and discussion in connection with the Compliance Agreement.

this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy ~~or any other obligations under such NSR Consent Decree~~.

4.14 [~~Purchaser Equity Commitment~~Reserved]~~. Purchaser shall use (and shall cause each of its Affiliates to use) its reasonable best efforts to take, or cause to be taken, all actions and to do, or cause to be done, all things necessary, proper or advisable to obtain the funding under the Equity Commitment on the terms and conditions described in the Equity Commitment, which shall include using reasonable best efforts to: (a) satisfy on a timely basis all terms, conditions, representations and warranties applicable to Purchaser set forth in the Equity Commitment, (b) maintain in full force and effect the Equity Commitment, (c) fully enforce its rights under the Equity Commitment to cause [____] to fund on or prior to the Closing Date the Equity Financing, and (d) upon satisfaction or waiver of the conditions set forth in the Equity Commitment, consummate the transactions set forth in the Equity Commitment at or prior to the Closing. Notwithstanding anything in this Agreement to the contrary, Purchaser shall not amend, modify or supplement any of the terms or conditions of (or otherwise waive any rights under) the Equity Commitment or otherwise terminate the same without the prior written consent of Sellers.~~][8].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser ~~shall~~may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with ~~this Agreement with binding effective as of the date of~~ this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. ~~The~~Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of ~~any insurance policy, including~~ the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other

[8] ~~Note to Draft: Section 4.14 to be included if Purchaser itself is not a creditworthy entity.~~

things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price).

Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their ~~commercially~~ reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters reasonably necessary or advisable in order to separate and enable the Business and Acquired Companies to independently operate in the ordinary course following Closing, or as otherwise mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use ~~commercially~~ reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of the date that is 120 days after the date of this Agreement and the Closing Date, to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use ~~commercially~~ reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor

Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $[●].

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator.[29]

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use ~~commercially~~ reasonable best efforts to cause any property, assets, Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to make an offer of employment to the Mitchell Employees prior to the Closing Date, to be effective as of the Closing Date or such earlier date as the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including those requested as part of the Mitchell Plant Proceedings. On or prior to

[29] Note to Draft: Subject to discussion by parties as to the appropriate scope of the Mitchell Assets.

the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee that accepts its offer of employment.

(d) [Sellers and Purchasers acknowledge that prior to the Effective Date Wheeling and Kentucky Power initiated the Mitchell Plant Proceedings by filing with the WVPSC and KPSC, respectively, for approval of the replacement of the Existing Mitchell Plant Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, to be effective on or prior to the Closing. Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to such agreements as are reasonably necessary to comply with any regulatory orders or rulings related thereto entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the necessary approvals of each of the KPSC, WVPSC and any other Government Entity, including FERC, in respect of those agreements have been obtained prior to the Closing Date. Notwithstanding anything to the contrary herein Sellers and their Affiliates shall have the right to prosecute any petitions, declarations or filings during the Interim Period in furtherance of the rulings contemplated by the Mitchell Plant Proceedings.][30]

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Sellers shall cause to be maintained in full force and effect the insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) currently in place for the benefit of any Acquired Companies or substantially similar insurance coverage for the Acquired Companies until the Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to benefit therefrom following Closing consistent with this Section 4.22. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), notice associated with such loss shall be tendered to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter)[31]. Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims. Following the Closing, to the extent that (i) any insurance policies, funds or reserves of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (ii) such policies, funds or reserves do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers

[30] **Note to AEP**: Bracketed language and other Mitchell-related provisions throughout the agreement subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

[redacted]

or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies, funds or reserves in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (ii) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Seller shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between American Electric Power Service Corporation and [Nationwide] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as American Electric Power Service Corporation under the Claim Handling and Funding Agreement.

4.23 Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise payable to any Acquired Company but rather payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error, Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset related to, or used in, the business of any Acquired Company on or prior to the Closing and necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof, either directly or indirectly, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans

except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."~~;~~

(b) ~~Purchaser shall, or shall cause one of its Affiliates to, as a condition of the transactions contemplated by this Agreement, (i) recognize Local 978, International Brotherhood of Electrical Workers as collective bargaining representative for the Covered Employees, in their respective bargaining units, and recognize the continued validity of the Collective Bargaining Agreements applicable to the Covered Employees immediately effective upon the Closing Date, (ii) abide by and agree to honor the terms and conditions of the Collective Bargaining Agreements including all Liabilities and obligations arising on and after the Closing Date under or in any way related to such Collective Bargaining Agreements, including seniority status, and (iii) indemnify and hold harmless each Seller and its Affiliates with respect to any Claims, obligations and Liabilities attributable to or arising under the Collective Bargaining Agreements on and after the Closing Date; and~~Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

~~(c) Purchaser shall, or shall cause one of its Affiliates to, as a condition of the transactions contemplated by this Agreement on and after the Closing Date, provide Covered Employees such benefits as may be required under the assumed Collective Bargaining Agreements (which, for the avoidance of doubt, shall be provided under benefit plans of Purchaser or its Affiliates) or as may be negotiated and accepted by Purchaser and the applicable union.~~

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate ~~which is at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to Closing;~~

~~(b)~~ and annual bonus ~~and incentive~~ opportunities (including target and maximum payouts~~)~~, ~~which are no less favorable~~but excluding long-term and equity based compensation opportunities), which are at least equal in the aggregate ~~than the~~to the base salary/wage rate and such annual bonus ~~and incentive~~ opportunities ~~(including target and maximum payouts)~~ provided to the Non-Covered Employee immediately prior to Closing ~~(provided, that any equity-based compensation opportunity provided prior to the Closing Date may be provided as cash compensation opportunities following Closing)~~;

(b) ~~(c)~~ vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) ~~(d) other employee~~defined contribution pension and welfare plan benefits ~~(other than severance benefits,~~ which ~~shall be provided as set forth in Section 5.6) that are substantially comparable~~are no less favorable in the aggregate to the ~~employee~~defined contribution pension and welfare plan benefits ~~(other than severance benefits)~~ provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the forgoing, Continuing Non-Covered Employees who are eligible as of the Closing Date to retiree medical coverage under any Seller Benefit Plan shall remain eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7 ~~with a minimum of twenty-six (26) weeks' base pay~~), with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the

Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall ~~not~~ be ~~less than such Continuing Employee's target bonus~~based on actual performance in respect of such fiscal year under the applicable Seller Benefit Plan.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the

applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 ~~Post-Closing Date Employment Claims~~[Reserved]~~. Except as expressly provided in this Agreement, Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any and all liability of any kind or nature involving or related to the employment of the Continuing Employees by Purchaser or its Affiliates after the Closing, including any liability related to any employee benefit plan sponsored or maintained by Purchaser or its ERISA Affiliates after the Closing or the termination of employment from Purchaser or one of its Affiliates on or following the Closing Date.~~

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the event giving rise to the claim occurs (the "Workers Compensation Event"). The date a Workers Compensation Event occurs shall be determined in accordance with the terms of the applicable Seller Benefit Plan and/or any applicable Laws in respect of workers compensation.

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act~~ or any similar state Law~~) occurs prior to or as of the Closing~~ without complying with the WARN Act or any similar state Law~~, except pursuant to Section 4.1(a)(v). Purchaser agrees ~~to provide~~that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act ~~or any similar state Law~~ with respect to any "plant closing" or "mass layoff" affecting ~~Acquired Company~~Continuing Employees that may occur ~~on or~~ after the Closing Date ~~or arise, in whole or in part, as a result of the transactions contemplated by this Agreement. On or after the Closing Date, Purchaser shall not effectuate a "plant closing" or "mass layoff" or any other similar triggering event under the WARN Act or any other applicable Law affecting any Continuing Employee, except in compliance with the WARN Act or any similar state Law. Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any liability, damages, fines or costs (including reasonable attorneys' fees) under~~. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act ~~or any similar state Law for~~with respect to any "plant closing" or "mass layoff" ~~occurring on or after the Closing Date or arising, in whole or in part, from the actions (or inactions)~~affecting any employees of ~~Purchaser~~Seller or any of its Affiliates ~~on or after~~(other than the ~~Closing Date or as a result of the transactions contemplated by this Agreement~~Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use ~~commercially~~ reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or

any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to any solicitation (or any hiring as a result of any solicitation) (x) that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, (y) of any person who is no longer employed by Sellers, Purchaser or their Affiliates as applicable or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees.

5.18 Code Section 409A. The Continuing Non-Covered Employees shall be treated, for purposes of Section 409A of the Code, as having a separation from service with Sellers and their Affiliates as of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the AEPSC Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of AEPSC

Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such AEPSC Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such AEPSC Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of AEPSC Employees (or the omission of any person from that list).

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any ~~such~~ amounts, such Person shall use its ~~commercially~~ reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its ~~commercially~~ reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability

for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to (i) require any Seller (or any of its Affiliates) to provide cooperation, documentation or information~~, or retain records~~ with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, ~~except to the extent any such Tax-related information relates solely~~provided that, in each case, Seller and its Affiliates provides Purchaser with cooperation, documentation, information or records that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall ~~pay, when due, and be responsible for,~~split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). ~~Purchaser~~The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes~~ and any Seller, if required by applicable Law, shall join in the execution of such Tax Return. If any Seller is required to file any such Tax Return and pay the Transfer Taxes shown as due thereon, Purchaser shall reimburse such Seller for such Transfer Taxes no later than five (5) days prior to the due date for such Tax Return~~.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business

and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

6.8 Tax Indemnification. From and after the Closing, each Seller, jointly and not severally, hereby agrees to indemnify, defend, save and hold harmless the Purchaser and its Affiliates from and against any and all Losses incurred or suffered by the Purchaser or its Affiliates (including the Acquired Companies) arising out of, based upon or resulting from any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group, or as transferee or successor to the extent such Taxes relate to an event or transaction occurring before the Closing.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby or that contains a Burdensome Condition (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained and shall be in full force and effect and not subject to any unfulfilled conditions to their effectiveness, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) CFIUS Clearance. The CFIUS Clearance shall have been obtained and be in full force and effect.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1 ~~(the first sentence only)~~, Section 2.2 ~~and~~, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in ~~all material~~*de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval or other consent or approval necessary to satisfy any condition to Closing set forth in Section 7.1 shall, individually or in the aggregate, impose, be conditioned upon or have created any Burdensome Condition (or any conditions or circumstances giving rise thereto).

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 (~~shall~~hall be true and correct in all ~~but~~ material respects as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date~~)~~) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the condition to the Closing set forth in Section 7.1~~(b)~~, has not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement~~ and; provided, further, that if the Outside Date would otherwise occur during the pendency of the notice period contemplated by Section 8.3(a)(ii) then the Outside Date shall be automatically extended until the expiration of such notice period~~;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this

agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within five (5) Business Days after the delivery of such notice to Purchaser, Purchaser has breached its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.[32]

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree) or Section 7.1(b) or Section 7.1(d) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity and

[32] **Note to AEP**: Regulatory provisions (including Termination Fee) subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

does not relate to the NSR Consent Decree), (C) Section 8.1(b)(iv) or (D) Section 8.1(c) ~~and~~ , (ii) the conditions in Section 7.1(a) ~~or~~ , 7.1(b) or 7.1(d) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 ~~(written notice of which failure to perform was provided by Purchaser to Sellers at least thirty~~ or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(~~30~~a) ~~days prior to the termination~~and Section 7.2(b) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $[_____][~~9~~33] (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity ~~for Willful Breach~~; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive ~~both~~more than one of (x) a grant of specific performance that results in a Closing ~~and~~, (y) the Termination Fee or (z) receipt of monetary damages (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 6.8 and Section 9.2, in any circumstance in which Sellers receive the Termination Fee or it would be payable, as the case may be, pursuant to this Section 8.3(a), together with the costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser [or Guarantor] or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to

[redacted]

Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by ~~Sellers and~~any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked,

cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. In no event shall Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed an amount equal to ~~ten percent (10%) of~~ the Base Purchase Price, and in no event shall Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed the amount of the Base Purchase Price.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, to the extent arising out of or resulting from any Liabilities of any Seller or any of its Affiliates to the extent not relating to, arising out of or resulting from the assets, businesses or operations of Seller or its Affiliates (whether before, on or after Closing) to the extent unrelated to the Business, the Acquired Companies or their respective assets, businesses or operations.

(b) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a), Section 6.8 and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a), Section 6.8 and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel

would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(b)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(c) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder.

9.3 ~~9.2~~ No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, ~~Purchaser~~each Party covenants, agrees and acknowledges that neither ~~Purchaser~~Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on ~~such~~any liabilities, obligations, commitments ~~against Sellers,~~created or arising in connection with this Agreement against any Person who is not a Party to this Agreement, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any ~~of a Seller~~other Party to this Agreement or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), ~~through Sellers or otherwise,~~ whether by or through a claim by or on behalf of ~~a Seller~~such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 ~~9.3~~ Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to ~~Willful Breach,~~ Fraud ~~or as may be included in the amount of the Purchase Price or the Termination Fee~~, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) through (c), (i) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement, or (ii) any such damages actually recovered by a third party against a Party based on the facts and circumstances of, or relate to or as a result of, such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

[Company]
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees ~~and expenses and any third party fees, costs or other expenses~~ incurred in connection with any filings or submissions or obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and shall be included in the Transaction Expenses (or else shall be reimbursed in full by the Sellers).

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with

respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action

for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the

privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to

any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives ~~either~~ through access to ~~an~~the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement ~~or through direct correspondence~~, with ~~the Person requesting~~ such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

[PURCHASER]

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. ~~1.~~ Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (an "AEPSC Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, [Purchaser Guaranty,] and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted in the ordinary course of business.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York ~~is~~or any banking institution in Toronto are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the ~~end of the day of the Closing Date~~Reference Time that are properly characterized as capital expenditures and would reasonably be expected to qualify for rate base treatment by the Acquired Companies, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power ~~on or~~ prior to the ~~Closing Date~~Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the Capital Expenditures Amount.[34]

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the 45-day review period and further investigation period (if any) pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; or (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash~~,~~ and cash equivalents ~~and~~(including marketable securities) of the Acquired Companies, excluding any restricted cash, in each case, as of the Reference Time. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies.

[34] **Note to AEP**: All purchase price component terms (whether or not specifically noted) subject to further accounting review and discussion.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of ~~immediately prior to the Closing~~the Reference Time, determined in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II and excluding trade accounts payable or other liabilities included in Net Working Capital.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount (the amounts described in (a) through (f) the "Closing Payment Adjustment") .

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated ~~[_____]~~April 26, 2021, by and between AEP and ~~[_____]~~Liberty Utilities Co.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code,

and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions ~~taken or not taken to respond to any impact or probable impact on the business of the Acquired Companies due to the COVID-19 Pandemic~~ or measures ~~taken to comply with~~required by any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity ~~relating~~in response to the COVID-19 Pandemic, including the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)~~, in each case, including reasonable changes in relationships with employees, customers and suppliers~~.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those condified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, ~~monetary~~ encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all ~~similar~~other Laws (including implementing regulations) of any Governmental Entity ~~having jurisdiction over the assets in question~~ addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities ~~necessary~~ under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and American Electric Power Service Corporation, a New York corporation, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been, and cannot be, reversed, appealed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the end of the day of the Closing Date (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the Closing Date divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in ~~justifiable~~reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean ~~(a) any of~~ the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution ~~industries~~utilities in the United States during the relevant time period ~~or~~and (b) ~~any of the practices, methods or acts~~ that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, ~~could have been~~are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition, using properly trained and skilled personnel; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to ~~be~~include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, ~~including obligations~~or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any ~~obligations~~Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other hedging or derivative contracts; (c) any reimbursement ~~obligations~~Liabilities in respect of letters of credit ~~or~~, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any Liabilities under leases that are (or should be) capitalized in accordance with GAAP or FERC Accounting Requirements; (g) any dividends declared but not yet paid; (h) any Liabilities in respect of physical asset retirement obligations to the extent such Liabilities would not currently be directly recoverable in rates charged to customers of the Acquired Companies; (i) any unpaid Liabilities with respect to severance compensation or benefits; (j) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (j); and (~~f~~)k) any guarantee by such Person of any ~~obligations~~Liabilities of another Person of the types described in the foregoing clauses (a) through (~~e~~k).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) ~~any action required or permitted to be taken by an Acquired Company pursuant to this Agreement or consented to in writing by each Party or any Action arising out of or related to this Agreement, or~~ any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval and the results of such action, including any Effect resulting from any term or condition in any Order relating to any Required Regulatory Approval or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the

international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x~~) any change in customer usage patterns; (xi) any Effect arising from any rate cases related to the Acquired Companies; (xii) any Effect that results from any shutdown or suspension of operations at any third-party facilities from which an Acquired Company obtains electricity; (xiii~~) any new power plant entrants and their effect on pricing or transmission; ~~and~~provided, further, that with respect to clauses (~~xiv~~iv) ~~any pending, initiated or threatened litigation pertaining to the transactions contemplated by this Agreement~~through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

~~"~~Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

~~"Mitchell Plant~~"Mitchell Plant~~ Proceedings" shall mean, collectively, the regulatory proceedings in WVPSC Docket Number [___] and KPSC Docket Number [___] relating to the replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.~~ O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in ~~a~~the form consistent with the regulatory approvals ~~obtained~~obtains pursuant to the Mitchell Plant Proceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, ~~Wheeling~~Successor Operator and AEPSC and dated as of or prior to the Closing Date, in ~~a~~the form consistent with the regulatory approvals obtained pursuant to the Mitchell Plant ~~Proceedings~~Poceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses and (ii) no

Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business for amounts not yet past due, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired

Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) ~~Encumbrances~~liens of lessors arising under any lease or sublease for Leased Real Property for amounts not yet due, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"Pre-Closing Tax Period" shall mean any taxable period ending on or prior to the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company or any of its Subsidiaries, including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 11:59 p.m., Eastern time, on the date immediately prior to the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to any Seller or any of its Affiliates (other than an Acquired Company) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies, in each case, on or prior to the Closing.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall have the meaning ascribed to such term in the Confidentiality Agreement.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto provides as of the date hereof and/or expects to provide as of or after the Closing Date more than an immaterial amount of products, services or Intellectual Property to (A) any of Acquired Companies, and (B) a Seller or any of its Affiliates (other than an Acquired Company) Sellers' Affiliates; provided, that the definition of Shared Contract" shall exclude any corporate-level services provided by a Seller or its Affiliates as contemplated in the Transition Services Agreement.

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the

board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean $[_____].[~~10~~35]

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to and in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated by this Agreement, amounts included in Indebtedness or the Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, and (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

[~~10~~35] Note to Draft: To be provided separately to bidders.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Closing. For the avoidance of doubt, Transaction Expenses shall include (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii), in each case, solely to the extent that any Acquired Company has or will have any Liability with respect to the foregoing.

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia.

2. ~~2.~~ Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals

Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP LTD Plan	5.19
AEPSC Employee	Definition of Acquired Company Employee
AEP TransCo	Preamble
Agreement	Preamble
Balance Sheet Date	2.5(c)
Business Separation Plan	4.16(f)
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
[Equity Commitment	3.7(c)]
[Equity Financing	3.7(c)]
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
[Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property

Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
[Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Intellectual Property	4.10
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL[11][36]

[11][36] Note to Draft: ~~Provided~~To be provided separately to bidders.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

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Document 1 ID	file://C:\Users\MP076133\Desktop\Nickel - Mitchell\Stock Purchase Agreement\2. Project Nickel - SPA [Updated Auction Draft] [AEP Draft 9-17-2021].DOCX
Description	2. Project Nickel - SPA [Updated Auction Draft] [AEP Draft 9-17-2021]
Document 2 ID	file://C:\Users\MP076133\Desktop\Nickel - Mitchell\Stock Purchase Agreement\3. Project Nickel - SPA [Liberty Draft 9-20-2021].docx
Description	3. Project Nickel - SPA [Liberty Draft 9-20-2021]
Rendering set	Standard

Legend:	
Insertion	
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Statistics:	
	Count
Insertions	917
Deletions	521
Moved from	22
Moved to	22
Style changes	0
Format changes	0

Total changes	1482

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

[_____]

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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Appendices

Exhibits

Disclosure Letters

[1] Note to Draft: These will be the forms included in the separate regulatory filings to be made in West Virginia and Kentucky (which may be made prior to signing) by Wheeling and Kentucky Power, respectively. ~~**Note to AEP:** Subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.~~

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and [_____], a [_____] ("Purchaser").[2] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

[2] Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity. **Note to AEP**: We are pleased to confirm that Algonquin Power & Utilities Corp. will guaranty and fully backstop the purchase price and other Purchaser obligations under the SPA through Closing. Purchaser is currently contemplated to be Liberty Utilities Co.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the [last Business Day of the calendar month in which the date that is the][3] third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:[4]

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) certificates evidencing the Shares, duly endorsed in blank or with stock powers duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

[3] **Note to AEP**: Parties to discuss alternative mechanic so that there is not an undue delay if the closing conditions are satisfied early in the month.

[4] **Note to AEP**: To discuss inclusion of other closing deliverables, including (i) payoff letters with respect to any existing Indebtedness of the Acquired Companies to be paid off at the Closing and (ii) evidence of termination of intercompany arrangements / related party agreements.

(B) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(C) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(D) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(E) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(F) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than five (5) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, and (iv) the Estimated Capital Expenditures Amount (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount pursuant to Section 1.3.

(b) ~~[~~The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.~~]~~[5]

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the Final Capital Expenditures Amount (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) become final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall

~~[5] **Note to AEP**: Subject to further review. Among other things, we assume accounting methodologies will make clear that the Mitchell purchase price components (e.g., assets, liabilities) will only be taken into account on a 50% basis.~~

cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement become final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or the Final Capital Expenditures Amount or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to [_____] or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness and (iv) the Final Capital Expenditures Amount that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing

Indebtedness for the Estimated Closing Indebtedness and the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness or Final Capital Expenditures Amount had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS[65]

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good, valid and marketable title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having

[65] NTD: Comments assume a customary Representations and Warranties insurance policy with a full materiality scrape and no unusual exclusions. Parties to discuss if any comments create an undue scheduling burden on Seller, which is not the intent.

the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and their Affiliates of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (c) notice and judicial approval of a modification to the NSR Consent Decree or (d) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of

termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, or (ii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky TransCo) and to maintain asset accountability, (iii) access to its material property and material assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. Sellers have made available to Purchaser true, complete and correct copies of the respective books, records and accounts of

the Acquired Companies in all material respects and the Acquired Companies' Financial Statements were derived from and are consistent with such books and records. None of any Seller, any Acquired Company, or any representative or other Person acting on behalf of any of the foregoing (including through a consultant or other third party) has established or maintained any unrecorded fund or asset or made any false or mislabeled entries on any books and records of any Acquired Company.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. Since the Balance Sheet Date, none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to the Closing.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement or bifurcated arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements, and (c) as set forth on Section 2.7 of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or advisable to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.[7]

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $[250,000] annually or, in the aggregate, $[1,000,000] annually, and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $[250,000] annually or, in the aggregate, $[1,000,000] annually, and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $[250,000] individually or $[1,000,000] in the aggregate or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $[250,000] individually or $[1,000,000] in the aggregate;

[7] **Note to AEP**: Scope, including thresholds, to be discussed and confirmed, including to ensure appropriate disclosure (and diligence backstop) without creating an undue scheduling burden.

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $[250,000] individually or $[1,000,000] in the aggregate;

(v) all Intercompany Arrangements;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation to use or purchase any good or service exclusively from one or more Persons;

(viii) all Contracts relating to any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies;

(x) all material real property leases and all Master Leases;

(xi) all material Shared Contracts;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts relating to the development, purchase or construction of new generation, other than Contracts for "spot" purchases and sales from or into the market on arm's-length terms with a durational term of effectiveness of less than 12 months;

(xiv) all material Contracts relating to fuel supply or transportation;

(xv) all Commercial Hedges having a notional value or involving aggregate consideration or aggregate payment obligations over the remaining term of such Contract in excess of $[250,000];

(xvi) all Collective Bargaining Agreements;

(xvii) all Contracts pursuant to which (A) an Acquired Company is granted any license, covenant or other right in, to or under a third party's Intellectual Property, or that otherwise relates to the use, practice or exploitation of a third party's Intellectual Property in the operation of an Acquired Company's businesses (other than with respect to any Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement) (each such Contract, an "In-License") or (B) a third party is granted any license, covenant or other right in, to or under any Owned Intellectual Property (other than non-exclusive licenses granted in the ordinary course of business); and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, third-party Intellectual Property licensed or otherwise available to or used, practiced or exploited by the Acquired Companies or by their respective businesses pursuant to an In-License, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the businesses conducted by the Acquired Companies as of the Effective Date, do not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and, to the Knowledge of Sellers, no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. The Acquired Companies (and the Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) there has been no material breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for, and perform in accordance with their documentation and functional specifications and otherwise as required in connection with, the operation of the Acquired Companies and their respective businesses, and have not malfunctioned or failed in any material respect.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) good and valid leasehold interests in, or a valid contractual right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof, is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default on the part of any Acquired Company or, if applicable, its Subsidiary or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Partnership Material Adverse Effect, there are no condemnation proceedings pending or, to the knowledge of, threatened with respect to any Real Property.

(c) An Acquired Company is the sole owner and has good and valid title to, or in the case of leased personal property assets, valid leasehold interests in, or otherwise has rights in, all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business as currently conducted and proposed to be conducted after the Closing Date, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning

of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee, (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) None of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) No Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the knowledge of an Acquired Company, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, in each case in the ordinary course of business, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Prior to the date of this Agreement, Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair

Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Seller or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns, with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation of sexual harassment or sexual assault, nor, to the Knowledge of Sellers, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is or may be subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has deducted, withheld and timely paid to the appropriate Governmental Entity all Taxes required to be deducted, withheld or paid in connection with amounts or owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has complied with all reporting and record keeping requirements.

(h) No Acquired Company has waived any statute of limitations in respect of Taxes or agreed to any extension of time with respect to a Tax assessment or deficiency (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) No Acquired Company (i) has ever been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than any such group the common parent of which is AEP), (ii) is not a party to and has no obligation under any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) does not have liability for the Taxes of any other Person except a member of a Tax group filing of which AEP is the common parent under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, by contract or otherwise.

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iii) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law), or any election under Section 965 of the Code.

(k) No Acquired Company has been a United States real property holding company within the meaning of Code Section 897(c)(2) during the period specified in Section 897(c)(1)(A)(ii).

(l) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(m) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(n) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

(o) No Acquired Company has deferred any payroll or employment Taxes or claimed any other benefit or relief pursuant to the CARES Act.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property or at any other location for which any Acquired Company may be liable, and Hazardous Materials are not otherwise present at such location in quantities or under circumstances that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation or adversely affect the use of any Real Property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all reports of any environmental or health-and-safety compliance audits performed within the past five years, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of the Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full, (iv) all matters that could be the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage in respect of any such claim and (v) no written notice of cancellation, termination or nonrenewal has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, employees, agents, and other Persons acting on behalf thereof (each, an "Acquired Company Representative") is and at all times has been in compliance with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of

operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER[86]

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of [___]; Purchaser has all requisite power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Additional Regulatory Filings and Consents, (c) notice and judicial approval of a modification to the NSR Consent Decree, (d) the filing by Purchaser and Sellers of a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving the CFIUS Clearance or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described

[86] NTD: To be conformed to the corresponding representations of Sellers, as applicable.

in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its properties or assets are bound or (iii) violate any Law applicable to Purchaser or any of their Affiliates or any of their respective properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a Sanctioned Country; (ii) a Prohibited Party or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by [_____] (the "Guarantor") in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is

an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.[97]

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (4) the satisfaction of the conditions set forth in Article VII and (5) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies (assuming the accuracy of the representations in Article II) will (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive

[97] **Note to AEP**: Algonquin Power & Utilities Corp. will be the Guarantor. We are also contemplating a debt commitment sized large enough to pay the full purchase price and may also raise equity. Once financing plans are finalized, we may add customary cooperation provisions to the extent necessary.

answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.~~[10]~~

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) in connection with actions taken reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operation emergencies (provided that Sellers shall provide notice to Purchaser of any such event as soon as reasonably practicable), (3) for any COVID-19 Measures (provided, that Sellers shall first notify Purchaser (including by providing reasonable details thereof) and reasonably consult with Purchaser in good faith at least five (5) Business Days prior to taking any such COVID-19 Measure), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter~~[11]~~[18] (provided, that any action taken

~~[10] NTD: Purchaser's additional comments to be provided following completion of due diligence. Comments will take into account scheduling so as not to create an undue scheduling burden.~~

~~[11]~~[18] NTD: Schedule 4.1 to be modified to include a description of the Mitchell regulatory filings that will be filed with the KPSC by Kentucky Power in connection with the request for approval of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company[12]9 and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with de minimis or no book value in the ordinary course of business, (C) pursuant to Contracts with third parties in effect on the Effective Date that are set forth on Section 4.1(a)(i)(C) of the Sellers Disclosure Letter, [(D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business,][13]10 (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $[5,000,000][14] in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments and relinquishments in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (D) [Commercial Hedges entered into in the ordinary

[12]9 **Note to AEP**: Discuss timing and approach with respect to Rockport Deferred Regulatory Asset, ROE true-up and related filings.

[13]10 **Note to AEP**: Discuss, including in the context of net working capital.

[14] ~~**Note to AEP**: Discuss, including in the context of what is ordinary course.~~

course of business][15]11, (E) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)), (H) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and the Mitchell Plant O&M Agreement, [and (F) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter][16]12);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire or terminate any Acquired Company Employee at the Vice President level (or its equivalent) or higher, or transfer any Acquired Company Employee into or out of the Business; (C) grant any severance or termination pay to any Acquired Company Employee; (D) adopt, amend, or terminate any Seller Benefit Plan or (E) loan or advance any money or any other property to any Acquired Company Employee;

(v) (A) recognize any union or other labor organization as the representative of any of the employees of the Acquired Companies, or (B) enter into, extend or renew (including by automatic extension or renewal), materially amend or terminate any Collective Bargaining Agreement applicable to employees of any Acquired Company, in each case except as required by applicable Law;

(vi) implement or announce any employment-site closings or reductions-in-workforce reasonably expected to result in employment losses sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend or propose to amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings up to the current limits thereof incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities, (B) in connection with Sellers' and their Affiliates' utility money pool program, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or

[15]11 **Note to AEP**: Discuss, including in the context of what is ordinary course.

[16]12 **Note to AEP**: Discuss, as this exception seems potentially very broad.

voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any material change to the security or operation of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) settle, discharge or compromise any Action, except for any Action involving monetary damages to be paid by an Acquired Company in excess of $[1,000,000]~~17~~13 in the aggregate during any 12-month period, or enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case in any way relating to the business of an Acquired Company, including with respect to any rate case, rate update, rate rider or other rate or regulatory accounting proceeding;

(xvi) subject any material asset to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced by a substantially similar insurance policy with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

~~17~~13 **Note to AEP**: Discuss $1 million threshold, including in the context of what is ordinary course.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.[~~18~~14]

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other than those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Material Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business

[~~18~~14] **Note to AEP**: To be confirmed/discussed in the context of the capital plan.

hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange (provided, that if permitted by Law, Purchaser agrees to give Sellers prior notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence from any other Person all information and documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange (provided, that if permitted by Law, such Seller agrees to give Purchaser prior notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information

by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), or (v) developed or derived independently by such Seller without the aid, application or use of such information or documents.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may reasonably be deemed by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.[19]

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a pre-filing version of a joint voluntary notice in respect of the transactions contemplated by this Agreement pursuant to the DPA, and as soon as practicable thereafter, file a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this

[19] **Note to AEP**: Regulatory provisions (including Termination Fee) subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement, ~~[~~the Mitchell Plant Proceedings~~]~~ and the consummation of the transactions contemplated hereby ~~[~~and thereby~~]~~. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals ~~[~~and the Mitchell Plant Proceedings~~]~~); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated hereby (including, for the avoidance of doubt, the Mitchell Plant Proceedings), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and to take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (~~i~~x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of the Purchaser), and to remove references concerning the valuation or other competitively sensitive material or (~~ii~~y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Notwithstanding anything to the contrary contained in this Agreement, Purchaser shall control and direct all communications, strategy and timing with respect ~~to~~any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated hereby (including the Required Regulatory Approvals and Mitchell Plant Proceedings), including the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws ~~(including the Required Regulatory Approvals)~~ or from any third party, as contemplated hereby after considering in good faith all reasonable comments and advice of the Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination,

asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to materially adversely affect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, and neither Sellers nor ~~Purchaser~~any of their respective Affiliates (including any Acquired Company) shall, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Proceedings or otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept (i) any ~~order, action or regulatory condition~~orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental

Entity or other Person containing terms, conditions, liabilities, obligations, commitments or sanctions, that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole ~~(~~or (ii) require Buyer or any of its Affiliates (including any Acquired Company for these purposes to pay for or bear any ELG Expenses (subject to the adjustment of the Buyout Price in accordance with the Mitchell Plant Ownership Agreement in the form attached hereto as Exhibit B) ((i) or (ii), a "Burdensome Condition" and (ii), an "ELG Burdensome Condition"); provided, further, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing.

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 of the FPA on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Purchaser hereby recognizes and acknowledges that the Acquired Companies are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Proceedings or otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party. Purchaser hereby recognizes and acknowledges that the Acquired Companies, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC and FERC concerning the Acquired Companies' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including responding to inquiries as to the potential effects of such transactions on the ongoing operations under discussion), without Purchaser being present or participating in such discussions. ~~[Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and shall consider any timely comments with respect thereto by Purchaser, provided that Purchaser acknowledges and agrees that Kentucky Power, Wheeling and Sellers shall be entitled to make any and all decisions in respect of such proceedings.]~~[20] In the event of such ~~discussions by the Acquired Companies with~~inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such ~~discussions~~inquiries concerning the transactions under this Agreement ~~[or the Mitchell Proceedings]~~ and coordinate on an appropriate mutually agreeable response. Sellers agree to provide Purchaser with timely updates as to the

[20] ~~**Note to AEP**: Bracketed language and other Mitchell-related provisions throughout the agreement subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.~~

status of, and issues raised in, any such proceedings, and Sellers and their Affiliates shall not consent or agree to any matter, or respond to any material inquiry, in respect of such proceedings related to any of the transactions contemplated by this Agreement without the prior written consent of Purchaser.

4.6 Consents. Sellers shall, and shall cause its Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. ~~[~~Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6.~~]~~[21] For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements.[22] Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in this Agreement or the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by Purchaser or any of its Affiliates to ratings agencies, actual or potential debt or equity financing sources, insurance brokers and other third-party service providers of Purchaser to the extent necessary or advisable in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, including in order for Purchaser to arrange for an efficient transition of the Acquired Companies. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, (i) sever and terminate all transactions and Contracts (other than those Contracts identified on Section 4.8(a) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the

[21] ~~**Note to AEP**: Discuss impact to the Acquired Companies of failure to obtain these approvals (including in that context the failure to obtain FERC 205 approval of the termination of the Mitchell Agreements, notwithstanding that approval of the replacement agreements would be a Required Regulatory Approval).~~

[22] ~~**Note to AEP**: Parties to discuss contemplated PR plan, including in the context of Purchaser's potential equity financing plans.~~

"Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements.

(b) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(c) During the Interim Period and following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace or bifurcate each Shared Contract with or into stand-alone Contracts, one for the applicable Seller or its applicable Affiliates and one for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(c), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(c) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written

consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased ~~[~~by more than $25,000,000~~]~~[23] as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. ~~[~~In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period).~~]~~[24] Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Certain [Intellectual Property]. As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to [within sixty (60) days][25][15] after the Closing Date, cease using and remove

[23] ~~**Internal Note to AEP**: Discuss threshold and how derived.~~

[24] ~~**Note to AEP**: Discuss, including in the context of any anticipated issues in obtaining releases.~~

[25][15] **Note to AEP:** Discuss practicality and whether this is enough time to scrub the marks, including extent to which used on fixtures or operational assets (e.g., equipment, building signage, etc.).

any name, logo, symbol, trademark, trade name, service mark, or designs containing or comprising [●][2616] ("Seller Marks") from any properties or assets relating to the Acquired Companies and dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.[2717]

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, agreements, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, agreements, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other

[2616] **Note to AEP**: Please list specific Seller/Affiliate marks.

[2717] **Note to AEP**: Parties to discuss and confirm whether there is any shared IP between the sellers and the acquired companies, other than trademarks (trade secrets, patents, unpatented inventions, etc.), where a mutual covenant not to sue on such IP may make sense.

matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.[2818]

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause

[2818] **Note to AEP**: These terms are subject to further ~~review and discussion~~potential conforming in connection with the Compliance Agreement.

its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in

the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters reasonably necessary or advisable in order to separate and enable the Business and Acquired Companies to independently operate in the ordinary course following Closing, or as otherwise mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify

Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of the date that is 120 days after the date of this Agreement and the Closing Date, to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $~~[●]~~700,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator.~~[29]~~

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, exclusively in its capacity as the operator of Mitchell~~, or otherwise to the extent held by Kentucky Power~~ for the benefit of the owners of Mitchell, in each case as set forth in Schedule 4.20(a) (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any

~~[29] Note to Draft: Subject to discussion by parties as to the appropriate scope of the Mitchell Assets.~~

Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to make an offer of employment to the Mitchell Employees prior to the Closing Date, to be effective as of the Closing Date or such earlier date as the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including those requested as part of the Mitchell Plant Proceedings. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee that accepts its offer of employment.

(d) ~~[~~Sellers and ~~Purchasers~~Purchaser acknowledge that prior to the Effective Date Wheeling and Kentucky Power initiated the Mitchell Plant Proceedings by filing with the WVPSC and KPSC, respectively, for approval of the replacement of the Existing Mitchell Plant Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, to be effective on or prior to the Closing~~.~~, as fully and fairly disclosed by Sellers to Purchaser. Subject to Section 4.5 and with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to such agreements as are reasonably necessary to comply with any regulatory orders or rulings related thereto entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the necessary approvals of each of the KPSC, WVPSC and any other Government Entity, including FERC, in respect of those agreements have been obtained prior to the Closing Date. ~~Notwithstanding anything to the contrary herein~~Subject to Section 4.5 and with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed), Sellers and their Affiliates shall have the right to prosecute any petitions, declarations or filings during the Interim Period in furtherance of the rulings contemplated by the Mitchell Plant Proceedings.~~]~~[30]

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Sellers shall cause to be maintained in full force and effect the insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) currently in place for the benefit of any Acquired Companies or substantially similar insurance coverage for the Acquired Companies until the Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to benefit therefrom following Closing consistent with this Section 4.22. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), notice

~~[30] **Note to AEP**: Bracketed language and other Mitchell-related provisions throughout the agreement subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.~~

associated with such loss shall be tendered to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter)~~31~~19. Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims. Following the Closing, to the extent that (i) any insurance policies, funds or reserves of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (ii) such policies, funds or reserves do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies, funds or reserves in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (ii) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Seller shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between American Electric Power Service Corporation and [Nationwide] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as American Electric Power Service Corporation under the Claim Handling and Funding Agreement.

4.23 Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise payable to any Acquired Company but rather payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired

[redacted]

Companies in error, Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset related to, or used in, the business of any Acquired Company on or prior to the Closing and necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof, either directly or indirectly, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity based compensation opportunities), which are at least equal in the aggregate to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) defined contribution pension and welfare plan benefits which are no less favorable in the aggregate to the defined contribution pension and welfare plan benefits provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the forgoing, Continuing Non-Covered Employees who are eligible as of the Closing Date to retiree medical coverage under any Seller Benefit Plan shall remain eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state

Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be based on actual performance in respect of such fiscal year under the applicable Seller Benefit Plan.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the event giving rise to the claim occurs (the "Workers Compensation Event"). The date a Workers Compensation

Event occurs shall be determined in accordance with the terms of the applicable Seller Benefit Plan and/or any applicable Laws in respect of workers compensation.

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to

employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to any solicitation (or any hiring as a result of any solicitation) (x) that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, (y) of any person who is no longer employed by Sellers, Purchaser or their Affiliates as applicable or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees.

5.18 Code Section 409A. The Continuing Non-Covered Employees shall be treated, for purposes of Section 409A of the Code, as having a separation from service with Sellers and their Affiliates as of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the AEPSC Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of AEPSC Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such AEPSC Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such AEPSC Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of AEPSC Employees (or the omission of any person from that list).

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after

the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to (i) require any Seller (or any of its Affiliates) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates provides Purchaser with cooperation, documentation, information or records that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

6.8 Tax Indemnification. From and after the Closing, each Seller, jointly and not severally, hereby agrees to indemnify, defend, save and hold harmless the Purchaser and its Affiliates from and against any and all Losses incurred or suffered by the Purchaser or its Affiliates (including the Acquired Companies) arising out of, based upon or resulting from any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group, or as transferee or successor to the extent such Taxes relate to an event or transaction occurring before the Closing.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby or that contains a Burdensome Condition (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained and shall be in full force and effect and not subject to any unfulfilled conditions to their effectiveness, and such approvals shall have become Final Orders or, if applicable, any mandatory

waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) CFIUS Clearance. The CFIUS Clearance shall have been obtained and be in full force and effect.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval or other ~~consent or approval~~ necessary ~~to satisfy any condition to Closing set forth in Section 7.1~~or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party, or the Mitchell Plant Proceedings, shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition (or any conditions or circumstances giving rise or that would reasonably be expected to give rise thereto).

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 (hall be true and correct in all material respects as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the condition to the Closing set forth in Section 7.1, has not been fulfilled but all

other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within five (5) Business Days after the delivery of such notice to Purchaser, Purchaser has breached its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.[32]

[32] **Note to AEP**: Regulatory provisions (including Termination Fee) subject to further discussion and review, including in the context of the upcoming regulatory hearings and related issues. To that end, we would welcome any opportunity to be helpful going into the hearings.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Specified Required Regulatory Approval ~~or is in connection with the assertion by a Governmental Entity that an approval (other than the~~), Section 7.1(b) (but only due to failure to obtain a Specified Required Regulatory ~~Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree) or Section 7.1(b~~Approval) or Section 7.1(d) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Specified Required Regulatory Approval ~~or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree~~), (C) Section 8.1(b)(iv) (but only due to a denial of a Specified Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a), 7.1(b) or 7.1(d) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2~~(a) and Section 7.2(b)~~ shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination ~~or~~, (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser or (C) the condition in Section 7.2(f) solely as a result of a Burdensome Condition that relates to a Specified Required Regulatory Approval and does not relate to an ELG Burdensome Condition), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $[_____]~~33~~20 (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 6.8 and Section 9.2, in any circumstance in which Sellers receive the Termination Fee or it would be payable, as the case may be, pursuant to this Section 8.3(a), together with the costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this

[redacted]

Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser [or Guarantor] or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. In no event shall Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed an amount equal to the Base Purchase Price, and in no event shall Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed the amount of the Base Purchase Price.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, to the extent arising out of or resulting from any Liabilities of any Seller or any of its Affiliates to the extent not relating to, arising out of or resulting from the assets, businesses or operations of Seller or its Affiliates (whether before, on or after Closing) to the extent unrelated to the Business, the Acquired Companies or their respective assets, businesses or operations.

(b) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a), Section 6.8 and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a), Section 6.8 and this Section 9.2, the Indemnifying Party

will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(b)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(c) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a Party to this Agreement, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other Party to this Agreement or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) through (c), (i) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement, or (ii) any such damages actually recovered by a third party against a Party based on the facts and circumstances of, or relate to or as a result of, such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060

Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

[Company]
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions or obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and shall be included in the Transaction Expenses (or else shall be reimbursed in full by the Sellers).

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of

execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective

current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

[PURCHASER]

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (an "AEPSC Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, [Purchaser Guaranty,] and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted in the ordinary course of business.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or any banking institution in Toronto are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and would reasonably be expected to qualify for rate base treatment by the Acquired Companies, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the Capital Expenditures Amount.[34]

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the 45-day review period and further investigation period (if any) pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; or (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or other proceeds related to loss, damage, condemnation, liability or casualty in respect of any asset or liability that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated

[34] **Note to AEP:** All purchase price component terms (whether or not specifically noted) subject to further accounting review and discussion.

net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, ~~determined in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II and~~ excluding trade accounts payable or other liabilities included in Net Working Capital.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount (the amounts described in (a) through (f) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Liberty Utilities Co.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures required by any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic, including the Coronavirus Aid, Relief, and Economic Security Act (CARES Act).

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those condified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"ELG Expenses" shall mean all capital or other expenditures associated with implementation of any improvements or updates to Mitchell to comply with the Steam Electric Reconsideration Rule, 85 Red. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the U.S. Environmental Protection Agency or the State of West Virginia.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response,

remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and American Electric Power Service Corporation, a New York corporation, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been~~, and cannot be,~~ reversed~~, appealed~~, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the end of the day of the Closing Date (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the Closing Date divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution utilities in the United States during the relevant time period and (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition, using properly trained and skilled personnel; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any Liabilities under leases that are (or should be) capitalized in accordance with GAAP or FERC Accounting Requirements; (g) any dividends declared but not yet paid; (h) any Liabilities in respect of physical asset retirement obligations to the extent such Liabilities would not currently be directly recoverable in rates charged to customers of the Acquired Companies; (i) any unpaid Liabilities with respect to severance compensation or benefits; (j) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (j); and (k) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (k).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval and the results of such action, including any Effect resulting from any term or condition in any Order relating to any Required Regulatory Approval or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any

new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant Proceedings" shall mean, collectively, the regulatory proceedings in WVPSC Docket Number [●] and KPSC Docket Number [●] relating to the replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the regulatory approvals obtains pursuant to the Mitchell Plant Proceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Successor Operator and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the regulatory approvals obtained pursuant to the Mitchell Plant ~~Poceedings~~Proceedings, the proposed form of which filed with the applications in the Mitchell Plant Proceedings is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses and (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United

States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business for amounts not yet past due, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) liens of lessors arising under any lease or sublease for Leased Real Property for amounts not yet due, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a

breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"Pre-Closing Tax Period" shall mean any taxable period ending on or prior to the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company or any of its Subsidiaries, including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 11:59 p.m., Eastern time, on the date immediately prior to the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to any Seller or any of its Affiliates (other than an Acquired Company) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies, in each case, on or prior to the Closing.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall have the meaning ascribed to such term in the Confidentiality Agreement.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto provides as of the date hereof and/or expects to provide as of or after the Closing Date more than an immaterial amount of products, services or Intellectual Property to (A) any of Acquired Companies, and (B) a Seller or any of its Affiliates (other than an Acquired Company) Sellers' Affiliates; provided, that the definition of Shared Contract" shall exclude any corporate-level services provided by a Seller or its Affiliates as contemplated in the Transition Services Agreement.

"Specified Required Regulatory Approval" shall mean any Required Regulatory Approval or other assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity, in each case, other than any consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals (i) related to the NSR Consent Decree, (ii) of the WVPSC or (iii) of any Governmental Authority failing to provide any such consent, clearance, non-objection, expiration or termination of any waiting period, authorization or approval, or imposing any Legal Restraint, as a result of a failure to agree, conform or adhere to any term, condition, liability, obligation, commitment or sanction imposed by the WVPSC.

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the

board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean $[_____].[~~35~~21]

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to and in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated by this Agreement, amounts included in Indebtedness or the Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, and (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

[~~35~~21] Note to Draft: To be provided separately to bidders.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Closing. For the avoidance of doubt, Transaction Expenses shall include (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii), in each case, solely to the extent that any Acquired Company has or will have any Liability with respect to the foregoing.

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or agent acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)

Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP LTD Plan	5.19
AEPSC Employee	Definition of Acquired Company Employee
AEP TransCo	Preamble
Agreement	Preamble
Balance Sheet Date	2.5(c)
Business Separation Plan	4.16(f)
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
[Equity Commitment	3.7(c)]
[Equity Financing	3.7(c)]
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
[Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)

Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
[Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Intellectual Property	4.10
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL[~~36~~22]

[~~36~~22] Note to Draft: To be provided separately to bidders.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

Document comparison by Workshare 10.0 on Monday, March 14, 2022 10:25:20 PM

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Description	4. Project Nickel - SPA [Liberty Draft 9-30-2021]
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Moved from	4
Moved to	4
Style changes	0
Format changes	0

Total changes	227

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

[_____]

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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Appendices

Exhibits

Disclosure Letters

~~[1] Note to Draft: These will be the forms included in the separate regulatory filings to be made in West Virginia and Kentucky (which may be made prior to signing) by Wheeling and Kentucky Power, respectively.~~

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and [_____], a [_____] ("Purchaser").[21] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

[21] Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity. **Note to AEP**: We are pleased to confirm that Algonquin Power & Utilities Corp. will guaranty and fully backstop the purchase price and other Purchaser obligations under the SPA through Closing. Purchaser is currently contemplated to be Liberty Utilities Co.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the ~~[last Business Day of the calendar month in which the date that is the]~~[3] third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at ~~12:01 a~~11:59 p.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:[4]~~2~~

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates[3], stock powers or appropriate transfer instructions, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable; and

[3] ~~**Note to AEP**: Parties to discuss alternative mechanic so that there is not an undue delay if the closing conditions are satisfied early in the month.~~

[4] ~~**Note to AEP**: To discuss inclusion of other closing deliverables, including (i) payoff letters with respect to any existing Indebtedness of the Acquired Companies to be paid off at the Closing and (ii) evidence of termination of intercompany arrangements / related party agreements.~~[2] **Note to Purchaser**: Please see Section 4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

[3] **Note to Purchaser**: The Kentucky Power Shares are represented by a certificate. The Kentucky TransCo Shares were issued in uncertificated form on the books of Kentucky TransCo.

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) ~~(B)~~ make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) ~~(C)~~ make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) ~~(D)~~ deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) ~~(E)~~ deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) ~~(F)~~ deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than ~~five~~three (~~5~~3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, ~~and~~ (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness ~~and~~, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) ~~become~~becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement ~~become~~becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness ~~or~~, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to [_____] or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with

the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness ~~and~~, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness ~~and~~, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness ~~or~~, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness ~~or~~, Final Capital

Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS[5]

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable~~, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing~~ and owned by the applicable Seller, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in

[5] ~~NTD: Comments assume a customary Representations and Warranties insurance policy with a full materiality scrape and no unusual exclusions. Parties to discuss if any comments create an undue scheduling burden on Seller, which is not the intent.~~

violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good~~,~~ and valid ~~and marketable~~ title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and their Affiliates of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers

Disclosure Letter (the "Additional Regulatory Filings and Consents"), (~~c~~d) notice and judicial approval of a modification to the NSR Consent Decree or (~~d~~e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC

Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (~~ii~~iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization~~,~~ and (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky ~~TransCo) and to maintain asset accountability, (iii) access to its material property and material assets is permitted only in accordance with management's general or specific authorization, and (iv) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. Sellers have made available to Purchaser true, complete and correct copies of the respective books, records and accounts of the Acquired Companies in all material respects and the~~Transco). The Acquired Companies' Financial Statements were derived from and are consistent with such books and records. ~~None of any Seller, any Acquired Company, or any representative or other Person acting on behalf of any of the foregoing (including through a consultant or other third party) has established or maintained any unrecorded fund or asset or made any false or mislabeled entries on any books and records of any Acquired Company.~~

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. ~~Since the Balance Sheet Date, none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to the Closing.~~

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement ~~or bifurcated~~ arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements to be terminated pursuant to Section 4.8, and (c) as set forth on Section 2.7 of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required ~~or advisable~~ to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to

constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $~~250,000 annually or,~~3,000,000 in any of the ~~aggregate, $1,000,000 annually,~~three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $~~250,000 annually or,~~3,000,000 in any of the ~~aggregate, $1,000,000 annually,~~three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $~~250,000 individually or $1,000,000~~3,000,000 in any of the ~~aggregate~~three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $~~250,000 individually or $1,000,000 in the aggregate~~3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $~~250,000 individually or $1,000,000~~3,000,000 in any of the ~~aggregate~~three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company or any member of the Seller Group has ongoing obligations;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any

of the Acquired Companies, except for filed Contracts in connection with the settlement of a Rate Proceeding;

(x) ~~all material real property leases and~~ all Master Leases;

~~(xi) all material Shared Contracts;~~

(xi) ~~(xii)~~ all Contracts for Continuing Support Obligations;

(xii) ~~(xiii)~~ all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts ~~relating~~committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the remaining term of such Contract in excess of $3,000,000, other than Contracts for ~~"spot"~~ purchases and sales ~~from or into the market~~ on arm's-length terms with a ~~durational~~delivery term of ~~effectiveness of~~ less than ~~12~~three (3) months ahead;

(xiii) ~~(xiv)~~ all ~~material~~ Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the remaining term of such Contract in excess of $3,000,000;

(xiv) ~~(xv)~~ all Commercial Hedges having a ~~notional~~current market value attributed or allocated to an Acquired Company or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the remaining term of such Contract in excess of $~~[250,000]~~3,000,000;

(xv) ~~(xvi)~~ all Collective Bargaining Agreements;

~~(xvii) all Contracts pursuant to which (A) an Acquired Company is granted any license, covenant or other right in, to or under a third party's Intellectual Property, or that otherwise relates to the use, practice or exploitation of a third party's Intellectual Property in the operation of an Acquired Company's businesses (other than with respect to any Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement) (each such Contract, an "In License") or (B) a third party is granted any license, covenant or other right in, to or under any Owned Intellectual Property (other than non-exclusive licenses granted in the ordinary course of business);~~ and

(xvi) ~~(xviii)~~ all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided

under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, ~~third party~~Licensed Intellectual Property ~~licensed or otherwise available to or used, practiced or exploited by the Acquired Companies or by their respective businesses pursuant to an In License~~, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. ~~Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, the businesses conducted by the Acquired Companies~~To the Knowledge of Sellers, Owned Intellectual Property as of the Effective Date~~, do~~ does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and~~,~~ to the Knowledge of Sellers~~,~~ no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. The Acquired Companies (and ~~the~~ Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) to the Knowledge of Sellers, during the last three (3) years, there has been no material breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for~~, and perform in accordance with their documentation and functional specifications and otherwise as required in connection with,~~ the operation of the Acquired Companies and their respective businesses, and have not ~~malfunctioned or failed in any~~experienced any unremedied material malfunctions or material ~~respect~~failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any

Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) ~~good and~~ valid leasehold interests in, or a ~~valid contractual~~ right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof, to the Knowledge of Sellers, is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company ~~or, if applicable, its Subsidiary~~ or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a ~~Partnership~~ Material Adverse Effect, there are no condemnation proceedings pending or, to the ~~knowledge~~Knowledge of Sellers, threatened with respect to any Real Property.

~~(c) An Acquired Company is the sole owner and has good and valid title to, or in the case of leased personal property assets, valid leasehold interests in, or otherwise has rights in, all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business as currently conducted and proposed to be conducted after the Closing Date, free and clear of all Encumbrances except for Permitted Encumbrances.~~

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning

of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could reasonably be expected to result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

~~(g) None of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.~~

~~(h) No Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).~~

(g) ~~(i)~~ With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the ~~knowledge~~Knowledge of ~~an Acquired Company~~Sellers, threatened.

(h) ~~(j)~~ No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(i) ~~(k)~~ This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the

Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, ~~in each case in the ordinary course of business,~~ and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. ~~Prior to the date of this Agreement,~~ Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of ~~Seller~~Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns~~,~~ with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) ~~Since~~Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) ~~Since~~Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, to the Knowledge of Sellers, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation of sexual harassment or sexual assault, nor~~, to the Knowledge of Sellers,~~ has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is ~~or may be~~ subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has ~~deducted, withheld~~materially complied with its obligations to deduct, withhold and timely ~~paid~~pay to the appropriate Governmental Entity all Taxes required to ~~be~~have been deducted, withheld or paid in connection with amounts ~~or~~ owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has ~~waived~~in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) ~~No~~During the past six years, no Acquired Company (i) has ~~ever~~ been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than ~~any such group~~ the ~~common parent of which is AEP~~Seller Affiliated Tax Group), (ii) is ~~not~~ a party to ~~and~~, or has ~~no~~an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) ~~does not have~~has liability for the Taxes of any other Person except for a member of ~~a~~the Seller Affiliated Tax ~~group filing of which AEP is the common parent~~Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract ~~or otherwise~~(other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (~~iii~~iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section

1502 of the Code (or any corresponding or similar provision of state or local income Tax Law)~~, or any~~. No Acquired Company has made an election under Section 965 of the Code~~.~~

~~(k) No Acquired Company has been a United States real property holding company within the meaning of Code Section 897(c)(2) during the period specified in Section 897(c)(1)(A)(ii)~~.

(k) ~~(l)~~ No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) ~~(m)~~ During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) ~~(n)~~ Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

~~(o) No Acquired Company has deferred any payroll or employment Taxes or claimed any other benefit or relief pursuant to the CARES Act.~~

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved ~~with no further obligation~~ or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable~~, and Hazardous Materials are not otherwise present at such location in quantities or under circumstances~~ that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation or adversely affect the use of any Real Property consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers,

threatened orally, against an Acquired Company that have not been fully and finally resolved ~~with no further obligation~~.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability of a third party under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any ~~environmental or health and safety compliance audits performed within the past five years,~~ environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of ~~the~~ Sellers or any Acquired Company.

(g) This Section 2.16 contains the sole representations and warranties of Sellers with respect to Environmental Laws or Environmental Permits.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all property and casualty insurance policies covering the Acquired Companies or their assets or operations. ~~True and complete copies of all such policies have been made available to Purchaser.~~ Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full except where in the process of renewal, (iv) all matters that ~~could be~~, to the Knowledge of Sellers, are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage ~~in respect of~~for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees~~, agents, and other Persons acting on behalf thereof~~ (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and

other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER[64]

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of [___]; Purchaser has all requisite power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (~~c~~d) notice and judicial approval of a modification to the NSR Consent Decree, (~~d~~e) the filing by Purchaser and Sellers of a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving the CFIUS Clearance or (~~e~~f) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (~~e~~f) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the

[64] NTD: To be conformed to the corresponding representations of Sellers, as applicable.

consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its properties or assets are bound or (iii) violate any Law applicable to Purchaser or any of their Affiliates or any of their respective properties or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) ~~(a)~~ Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the

obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by [_____]Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty")[5]. The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.[76]

(c) Assuming (1~~) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (4~~) the satisfaction of the conditions set forth in Article VII[7] and (~~5~~2) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature,~~ after giving effect to the transactions contemplated by this Agreement,~~ Purchaser and the Acquired Companies ~~(assuming the accuracy of the representations in Article II) will~~shall, after giving effect to the transactions contemplated by this Agreement, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

[5] **Note to Purchaser**: Purchaser Guaranty to be governed by New York law and provide for Guarantor's submission to the jurisdiction of New York courts.

[~~7~~6] **Note to AEP**: Algonquin Power & Utilities Corp. will be the Guarantor. We are also contemplating a debt commitment sized large enough to pay the full purchase price and may also raise equity. Once financing plans are finalized, we may add customary cooperation provisions to the extent necessary.

[7] **Note to Purchaser**: Article VII already includes conditions as to bringdown of representations, warranties and covenants of Sellers, with the appropriate materiality standards and scrapes.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on

behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) in connection with actions ~~taken~~ reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen ~~operation~~operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event as soon as reasonably practicable), (3) for any COVID-19 Measures (provided, that Sellers shall ~~first~~ notify Purchaser (including by providing reasonable details thereof) ~~and~~as soon as reasonably ~~consult with Purchaser in good faith at least five (5) Business Days prior to taking any such COVID-19 Measure~~practicable), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter[8] (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company[9][8] and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with ~~de minimis or no~~immaterial book value in the ordinary course of business, (C) pursuant to Material Contracts with third parties in effect on the Effective Date ~~that are set forth on Section 4.1(a)(i)(C) of the Sellers Disclosure Letter~~, ~~[~~(D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business,~~]~~[10][9] (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the

[8] ~~NTD: Schedule 4.1 to be modified to include a description of the Mitchell regulatory filings that will be filed with the KPSC by Kentucky Power in connection with the request for approval of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.~~

[9][8] **Note to AEP**: Discuss timing and approach with respect to Rockport Deferred Regulatory Asset, ROE true-up and related filings.

[10][9] **Note to AEP**: Discuss, including in the context of net working capital. **Note to Purchaser**: AEP plans to have Kentucky Power withdraw from the receivables factoring facility prior to the anticipated Closing Date so that customer receivables will begin accruing and will be included in NWC as of the Closing Date.

Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments ~~and~~, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (~~D~~E) [Commercial Hedges entered into in the ordinary course of business]~~11~~10, (~~E~~F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)), (~~H~~G) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and the Mitchell Plant O&M Agreement, ~~[~~and (~~F~~H) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter~~]~~~~12~~11);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire or terminate any Acquired Company Employee at the Vice President level (or its equivalent) or higher, or transfer any Acquired Company Employee who performs material services for the Business into or out of the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business; ~~(D) adopt, amend, or terminate any Seller Benefit Plan or (E~~or (D) loan or advance any money or any other property to any Acquired Company Employee~~;~~

~~11~~10 **Note to AEP**: Discuss, including in the context of what is ordinary course.

~~12~~11 **Note to AEP**: Discuss, as this exception seems potentially very broad.

~~(v) (A) recognize any union or other labor organization as the representative of any of the employees of the Acquired Companies, or (B) enter into, extend or renew (including by automatic extension or renewal), materially amend or terminate any Collective Bargaining Agreement applicable to employees of any Acquired Company, in each case except as required by applicable Law~~ except pursuant to any Seller Benefit Plan;

(v) ~~(vi)~~ implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vi) ~~(vii)~~ (A) ~~amend or propose to~~ amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(vii) ~~(viii)~~ create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings ~~up to the current limits thereof~~ incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities~~, (B) in connection with Sellers' and their Affiliates'~~ up to the current limits thereof, (B) under the Utility Money Pool Agreement or successor utility money pool program~~,~~ of Seller and its Affiliates, (C) in connection with the refinancing of existing maturing Indebtedness of an Acquired Company and (~~C~~D) under the Debt Agreements;

(viii) ~~(ix)~~ cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(ix) ~~(x)~~ issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(x) ~~(xi)~~ make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

~~(xii) make any material change to the security or operation of the IT Assets;~~

(xi) ~~(xiii)~~ except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for

any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xii) ~~(xiv)~~ dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xiii) ~~(xv)~~ settle, discharge or compromise any Action, except for any Action in connection with obtaining the Mitchell Plant Approvals, involving monetary damages to be paid by an Acquired Company in excess of $~~[1,000,000]~~[13]3,000,000 in the aggregate during any 12-month period, or enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case in any way relating to the business of an Acquired Company, including with respect to any ~~rate case, rate update, rate rider or other rate or regulatory accounting proceeding~~Rate Proceeding;

(xiv) ~~(xvi)~~ subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xv) ~~(xvii)~~ engage in any material new line of business;

(xvi) ~~(xviii)~~ cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless (A) such insurance policy is replaced ~~by~~with a ~~substantially similar~~commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage or (B) such coverage is no longer available on commercially reasonable terms consistent with Good Utility Practice; or

(xvii) ~~(xix)~~ agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.~~14~~12

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other than those which are employed by or perform services

~~[13] **Note to AEP**: Discuss $1 million threshold, including in the context of what is ordinary course.~~

~~14~~12 **Note to AEP**: To be confirmed/discussed in the context of the capital plan.

for the Acquired Companies. Notwithstanding anything herein to the contrary, Sellers and their Affiliates may negotiate, extend or renew any such Collective Bargaining Agreements in their sole discretion. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any ~~Material~~ Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) ~~Each~~Unless otherwise provided in, or as may be necessary in connection with the performance of services under, the Transition Services Agreement or the Mitchell Plant O&M Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence ~~from~~and not disclose any ~~other Person all~~ information ~~and~~or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), ~~or~~ (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax

authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably ~~be deemed~~requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a pre-filing version of a joint voluntary notice in respect of the transactions contemplated by this Agreement pursuant to 31 CFR 800.501(g) of the DPA within thirty (30) days of the Effective Date, and as soon as practicable thereafter but no later than sixty (60) days following the Effective Date, file a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings)

with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement~~, the Mitchell Plant Proceedings~~ and the consummation of the transactions contemplated hereby~~ and thereby~~. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals~~ and~~, the Mitchell Plant ~~Proceedings~~Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated ~~hereby~~by this Agreement (including~~, for~~ the ~~avoidance of doubt~~Required Regulatory Approvals, the Mitchell Plant ~~Proceedings~~Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and~~ to~~ take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of ~~the~~ Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. ~~Notwithstanding anything to the contrary contained in this Agreement,~~ Purchaser shall ~~control and direct all communications,~~take the lead on strategy ~~and timing~~ with respect ~~any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated hereby (including the Required Regulatory Approvals and Mitchell Plant Proceedings), including~~to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws ~~or from any third party~~(including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of~~ the~~ Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to ~~materially~~ adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, ~~and neither Sellers nor any of their respective Affiliates (including any Acquired Company) shall,~~ in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant ~~Proceedings or otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods,~~

~~authorizations or approvals of any Governmental Entity or under any Laws or from any third party~~Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept ~~(i)~~ any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity ~~or other Person~~, containing terms, conditions, liabilities, obligations, commitments or sanctions~~,~~ that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole ~~or (ii) require Buyer or any of its Affiliates (including any Acquired Company for these purposes to pay for or bear any ELG Expenses (subject to the adjustment of the Buyout Price in accordance with the Mitchell Plant Ownership Agreement in the form attached hereto as Exhibit B) ((i) or (ii),~~ (a "Burdensome Condition" ~~and (ii), an "ELG Burdensome Condition"~~)[13] [14]; provided, ~~further,~~ that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or ~~otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party~~the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing; and provided, further, that the restrictions described in this sentence shall not apply to the Sellers' actions in connection with obtaining the Mitchell Plant Approvals, but, for the avoidance of doubt, Purchaser's obligation to consummate the Closing shall remain subject to satisfaction of the condition set forth in Section 7.2(f). Without the prior written consent of Purchaser, except in connection with obtaining the Mitchell Plant Approvals, Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer to agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section

[13] **Note to Purchaser**: Any terms, conditions, obligations, etc. arising in connection with the Mitchell Plant Approvals to be included in the Burdensome Condition bucket. Purchaser and Sellers to discuss an economic adjustment, if necessary, prior to signing to the extent the upcoming WVPSC order imposes unanticipated obligations or liabilities on Kentucky Power that would apply post-Closing in respect of ELG obligations at Mitchell.

[14] **Note to Purchaser**: Some ELG capital expenditures will result in incremental savings in CCR capital expenditures borne by both owners, and the Mitchell Plant Ownership Agreement will be updated to reflect, consistent with Kentucky Power's testimony filed in the KPSC proceeding, that a portion of ELG capital expenditures that offset CCR compliance costs should be borne by Kentucky Power.

205") the items listed as subject to Section 205 of the FPA on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Purchaser hereby recognizes and acknowledges that the Acquired Companies are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Without limiting the generality of the foregoing, nothing in this Agreement shall prohibit the Acquired Companies from initiating, continuing to pursue, appealing, settling, or entering into any stipulation with respect to the Mitchell Plant Approvals and any Rate Proceeding. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant ~~Proceedings or otherwise in connection with obtaining any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party~~Approvals or the Additional Regulatory Filings and Consents. Purchaser hereby recognizes and acknowledges that the Acquired Companies, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including responding to inquiries as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion)~~,~~ without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate ~~mutually agreeable~~ response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and, ~~and Sellers and their Affiliates shall not consent or agree to any matter, or respond~~to the extent practicable, consider any timely comments by Purchaser in responding to any material inquiry~~, in~~ with respect ~~of such proceedings related to any of the transactions contemplated by this Agreement without the prior written consent of Purchaser~~thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause ~~its~~their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6 and the failure to receive any rulings, orders or consents in respect of the Additional Regulatory Filings and Consents or, if applicable, such third party consents shall not be taken into account with respect to whether any condition to the Closing set forth in Section 7.1 shall have been fulfilled. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent

required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in ~~this Agreement or~~ the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by ~~Purchaser~~a Party or any of its Affiliates to ~~ratings agencies, actual or potential debt or equity financing sources, insurance brokers and other third party service providers of Purchaser to the extent necessary or advisable in connection with the consummation of the transactions contemplated by this Agreement or the Ancillary Agreements, including in order for Purchaser to arrange for an efficient transition of the Acquired Companies~~its and their Representatives.[15] For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations, (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a

[15] **Note to Purchaser**: See revised definition of "Representative" that includes additional persons beyond those specified in the Confidentiality Agreement.

"Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.

(c) ~~(b)~~ Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) ~~(c)~~ During the Interim Period and for up to six (6) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace ~~or bifurcate each~~the Acquired Companies' interest in any Shared Contract with ~~or into~~a stand-alone ~~Contracts, one for the applicable Seller or its applicable Affiliates and one~~Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(~~c~~d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(~~c~~d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or

replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of ~~Certain [Intellectual Property~~Seller Marks~~]~~. As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to ~~[~~within ~~sixty~~one hundred twenty (~~60~~120) days~~]~~[15] after the Closing Date, cease using ~~and~~, remove, cover or conceal any name, logo, symbol, trademark, trade name, service

[15] ~~**Note to AEP:** Discuss practicality and whether this is enough time to scrub the marks, including extent to which used on fixtures or operational assets (e.g., equipment, building signage, etc.).~~

mark, or designs ~~containing or comprising [●][16] ("Seller Marks")~~incorporating or referring to: the words or letters "AEP", "American Electric Power" or "Ohio Power" (or any variant thereof), the phrases "Boundless Energy" or "America's Energy Partner" (or any variant thereof), the AEP parallelogram logo (or any variant thereof) or the AEP incomplete parallelogram logo (or any variant thereof), (collectively, the "Seller Marks"), any Seller or any Seller's business, or any reference that in the eyes of a reasonable consumer could be confused with a reference to any Seller or the Seller Marks, from any properties or assets relating to the Acquired Companies and, within thirty (30) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.~~17~~16

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, ~~agreements,~~ damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, ~~agreements,~~ damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of

~~16 **Note to AEP**: Please list specific Seller/Affiliate marks.~~

~~17~~16 **Note to AEP**: Parties to discuss and confirm whether there is any shared IP between the sellers and the acquired companies, other than trademarks (trade secrets, patents, unpatented inventions, etc.), where a mutual covenant not to sue on such IP may make sense.

Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.[~~18~~17]

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and

[~~18~~17] **Note to AEP**: These terms are subject to further potential conforming in connection with the Compliance Agreement.

covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be

reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters ~~reasonably necessary or advisable in order to separate and enable the Business and Acquired Companies to independently operate in the ordinary course following Closing, or as otherwise~~ mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business, including so

as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of the date that is 120 days after the date of this Agreement and the Closing Date, to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $~~700,000~~50,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.[18]

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, ~~exclusively~~ in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Schedule 4.20(a) (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled

[18] Note to Draft: Subject to discussion by parties as to the appropriate scope of the Mitchell Assets.

to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to ~~make an offer of~~transfer the employment ~~to~~of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or ~~such~~, if earlier, the first day of the payroll period following the date ~~as~~that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including ~~those requested as part of~~ the Mitchell Plant ~~Proceedings~~Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee ~~that accepts its offer of~~who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers ~~and Purchaser acknowledge that prior to the Effective Date Wheeling and Kentucky Power initiated the Mitchell Plant Proceedings by filing with the WVPSC and KPSC, respectively, for approval of the replacement of the Existing Mitchell Plant Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, to be effective on or prior~~shall take the lead on strategy with respect to the Parties' efforts to obtain the ~~Closing, as fully and fairly disclosed by Sellers to Purchaser. Subject to Section 4.5 and with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed),~~Mitchell Plant Approvals after considering in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith.[19] Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to ~~such agreements~~the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with ~~any regulatory orders or rulings~~the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the ~~necessary approvals of each of the KPSC, WVPSC and~~

[19] **Note to Purchaser**: AEP now anticipates that the filings to obtain the Mitchell Plant Approvals would be made shortly after the Effective Date.

~~any other Government Entity, including FERC, in respect of those agreements~~Mitchell Plant Approvals have been obtained ~~prior to the Closing Date. Subject to Section 4.5 and with the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed)~~and have become Final Orders. Notwithstanding anything to the contrary herein, Sellers and their Affiliates shall have the right to prosecute any petitions, declarations or filings during the Interim Period in furtherance of the ~~rulings contemplated~~Mitchell Plant Approvals. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant ~~Proceedings~~Approvals that relates to the period on and after the Closing Date, in each case, shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. ~~Sellers shall cause to be maintained in full force~~Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and ~~effect~~having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) ~~currently in place~~ for the benefit of any Acquired Companies ~~or substantially similar~~maintained by Sellers or their Affiliates. [20] Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance ~~coverage for the~~to each Acquired ~~Companies until the Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of~~Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies ~~to benefit therefrom~~in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing ~~consistent with this Section 4.22~~to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Seller shall use its reasonable best efforts to provide notice ~~associated with~~of such loss ~~shall be tendered~~ to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter)~~[19]~~[21]. Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (~~i~~a) any insurance policies~~, funds or reserves~~ of Sellers or their

[20] **Note to Purchaser**: Deleted language duplicative of Section 4.1(a)(xvi).

[redacted]

Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (~~ii~~b) such policies, funds or reserves do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies~~, funds or reserves~~ in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (~~ii~~b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Seller shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between American Electric Power Service Corporation and [Nationwide] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as American Electric Power Service Corporation under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), subject to any required regulatory approvals or third party consents, Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company ~~on or~~ prior to the Closing and necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, ~~either directly or indirectly~~subject to any required regulatory approvals or third party consent, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration (but at no

cost to each Seller of any or its Affiliates), such right, property or asset as soon as practicable to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity -based compensation opportunities), which are at least equal ~~in the aggregate~~ to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) ~~defined contribution pension and welfare plan~~other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the ~~defined contribution pension and welfare plan~~employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the ~~forgoing~~foregoing, Continuing Non-Covered Employees who ~~are eligible~~, as of the Closing Date ~~to~~, may have become eligible for retiree medical coverage under any Seller Benefit Plan after the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.[22]

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing

[22] Note to Purchaser: Note that Seller is not requiring the buyer to provide defined benefit plan, equity-based compensation and/or long-term compensation benefits. Rather, the proposed covenant merely requires the value of any such benefits to be included in the calculation of benefits in the "aggregate" that must be provided.

Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall not be ~~based on actual performance~~less than such Continuing Employee's target bonus in respect of such fiscal year under the applicable Seller Benefit Plan.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are

paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 ~~[Reserved]~~Post-Closing Date Employment Claims. Except as expressly provided in this Agreement, Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any and all Liability of any kind or nature involving or related to the employment of the Continuing Employees by Purchaser or its Affiliates after the Closing, including any Liability related to any employee benefit plan sponsored or maintained by Purchaser or its ERISA Affiliates after the Closing or the termination of employment from Purchaser or one of its Affiliates on or following the Closing Date.

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when ~~the event giving rise to~~ the claim ~~occurs~~for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event"). ~~The date a Workers Compensation Event occurs shall be determined in accordance with the terms of the applicable Seller Benefit Plan and/or any applicable Laws in respect of workers compensation.~~

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract,

agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with or been made aware of as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to any solicitation (or any hiring as a result of any solicitation) (x) that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, (y) of any person who is no longer employed by Sellers, Purchaser or their Affiliates as applicable or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees.

5.18 Code Section 409A. ~~The Continuing Non-Covered Employees shall be treated, for purposes of Section 409A of the Code, as having a separation from service with Sellers and their Affiliates as of the Closing Date.~~Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the AEPSC Employees, which Qualifying Offer shall be conditioned

upon the occurrence of the Closing and effective as of the Closing Date, except in the case of AEPSC Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such AEPSC Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such AEPSC Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of AEPSC Employees (or the omission of any person from that list).

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to ~~(i)~~ require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates ~~provides~~shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business

and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

~~6.8 Tax Indemnification. From and after the Closing, each Seller, jointly and not severally, hereby agrees to indemnify, defend, save and hold harmless the Purchaser and its Affiliates from and against any and all Losses incurred or suffered by the Purchaser or its Affiliates (including the Acquired Companies) arising out of, based upon or resulting from any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group, or as transferee or successor to the extent such Taxes relate to an event or transaction occurring before the Closing.~~

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby~~ or that contains a Burdensome Condition~~ (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals[23] shall have been duly obtained~~ and shall be in full force and effect and not subject to any unfulfilled conditions to their effectiveness~~[24], and such approvals shall have become Final Orders or, if applicable, any mandatory

[23] **Note to Purchaser:** Mitchell Plant Approvals have been removed from the Required Regulatory Approvals set forth on Section A(v) of the Seller Disclosure Letter. There would no longer be any WVPSC approvals included in the definition of Required Regulatory Approvals. The Required Regulatory Approvals would be: FERC 203, HSR, KPSC, FCC, CFIUS and financing approvals under FERC 204 and with the KPSC (subject to Sellers' comfort on Purchaser's permanent financing plan, once finalized and disclosed to Sellers prior to signing, to the extent it involves pledging utility assets or equity).

[24] **Note to Purchaser:** Deleted language covered in the definition of Final Order.

waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) CFIUS Clearance. The CFIUS Clearance shall have been obtained and be in full force and effect.

(e) Mitchell Plant Approvals. The Mitchell Plant Approvals[25] shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

[25] **Note to Purchaser:** Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

(f) Burdensome Condition. No Required Regulatory Approval ~~or other necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws or from any third party, or the~~, Mitchell Plant ~~Proceedings,~~Approval or Additional Regulatory Filing and Consent shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition ~~(or any conditions or circumstances giving rise or that would reasonably be expected to give rise thereto)~~.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 ~~(hall~~shall be true and correct ~~in all material~~(other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the ~~condition~~conditions to the Closing set forth in Section 7.1~~, has~~ have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser ~~an irrevocable~~a written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within ~~five~~two (~~5~~2) Business Days after the delivery of such notice to Purchaser,

Purchaser has ~~breached~~failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.[26]

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a ~~Specified~~ Required Regulatory Approval~~), Section 7.1(b) (but only due to failure to obtain a Specified Required Regulatory Approval~~[27] or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree), Section 7.1(b) or Section 7.1(d) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a ~~Specified~~ Required Regulatory Approval or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree), (C) Section 8.1(b)(iv) (but only due to a denial of a ~~Specified~~ Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a), 7.1(b) or 7.1(d) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or ~~otherwise under this Agreement~~Section 4.20(d), and (iii) at the time of such termination, all conditions set forth in Section 7.2(a), Section 7.2(b) and Section 7.2(d) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination~~,~~ or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser ~~or (C) the condition in Section 7.2(f) solely as a result of a Burdensome Condition that relates to a Specified Required Regulatory Approval and does not relate to an ELG Burdensome Condition~~), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $[_____]~~20~~[28] (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer

[26] **Note to Purchaser**: This section and the closing conditions revised with the intent that, if the Mitchell Plant Approvals are not obtained, then Purchaser would not owe the Termination Fee. Adverse changes to the Mitchell agreements with respect to Kentucky Power would be factored into the determination of the Burdensome Condition. If the cumulative adverse impact of conditions/settlements relating the Required Regulatory Approvals (which no longer include WVPSC approvals) and changes to the Mitchell agreements required by the Mitchell Plant Approvals result in a Burdensome Condition, then Purchaser would not be obligated to close but would be required to pay the Termination Fee if it elects not to close based upon the Burdensome Condition.

[27] **Note to Purchaser:** Mitchell Plant Approvals have been removed from the Required Regulatory Approvals set forth on Section A(v) of the Seller Disclosure Letter. There would no longer be any WVPSC approvals included in the definition of Required Regulatory Approvals. See note above in Section 7.1(b).

[redacted]

(to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages resulting from the termination of this Agreement (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section ~~6.8 and Section~~ 9.2, in any circumstance in which Sellers receive the Termination Fee ~~or it would be payable~~, as the case may be, pursuant to this Section 8.3(a), together with the costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser ~~[~~or Guarantor~~]~~ or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting

the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. In no event shall Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed an amount equal to fifty percent (50%) the Base Purchase Price, and in no event shall Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement exceed the amount of the Base Purchase Price.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its

Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, ~~to the extent~~ arising out of or resulting from any Liabilities of any Seller or any of its Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, or (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing.

(b) Subject to the provisions of this Article IX, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent ~~not relating to,~~ arising out of or resulting from ~~the assets, businesses~~ any Liabilities of Purchaser or ~~operations~~any of ~~Seller or~~ its Affiliates (~~whether before, on or after Closing) to the extent unrelated to the Business,~~including the Acquired Companies ~~or their respective assets, businesses or operations~~) to the extent related to the Business.

(c) ~~(b)~~ Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a)~~, Section 6.8~~ and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a)~~, Section 6.8~~ and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of

any Third Party Claim pursuant to this Section 9.2(~~b~~c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) ~~(c)~~ Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a ~~Party~~party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other ~~Party~~party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Willful Breach or Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) ~~through~~and (~~c~~), (~~i~~b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement~~, or (ii) any such damages actually recovered by a third party against a Party based on the facts and circumstances of, or relate to or as a result of,~~ as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

[Company]
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions or obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or Additional Regulatory Filings and Consents. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses ~~(or else shall be reimbursed in full by the Sellers)~~.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary

Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their

specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be

disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The

word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

[PURCHASER]

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (an "AEPSC Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, ~~[~~Purchaser Guaranty,~~]~~ and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted ~~in the ordinary course of business~~.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or ~~any~~ banking ~~institution~~institutions in Toronto, Ontario are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures ~~and would reasonably be expected to qualify for rate base treatment by the Acquired Companies~~, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the Capital Expenditures Amount.

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the 45-day review period and further investigation period (if any) pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; or (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance ~~or other~~ proceeds ~~related~~held as cash to ~~loss,~~the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation~~, liability~~ or casualty in respect of any asset ~~or liability that would not be included in Net Working Capital~~of the Acquired Companies, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (~~f~~g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and [Liberty Utilities Co., a Delaware corporation]/[Purchaser].

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code,

and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures ~~required by~~taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic~~, including the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)~~.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those condified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

~~"ELG Expenses" shall mean all capital or other expenditures associated with implementation of any improvements or updates to Mitchell to comply with the Steam Electric Reconsideration Rule, 85 Red. Reg. 64,650 (Oct. 13, 2020), and any regulations thereunder promulgated by the U.S. Environmental Protection Agency or the State of West Virginia.~~

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response,

remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and American Electric Power Service Corporation, a New York corporation, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the ~~end of the day of the Closing Date~~Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the ~~Closing Date~~date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution ~~utilities~~industries in the United States during the relevant time period ~~and~~or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the

desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition~~, using properly trained and skilled personnel~~; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount;[29] (f) any ~~Liabilities under leases that are (or should be) capitalized in accordance with GAAP or FERC Accounting Requirements; (g) any~~ dividends declared but not yet paid; (~~h~~g) ~~any Liabilities in respect of physical asset retirement obligations to the extent such Liabilities would not currently be directly recoverable in rates charged to customers of the Acquired Companies; (i)~~ any unpaid Liabilities with respect to severance compensation ~~or benefits~~; (~~j~~h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (~~k~~i) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (~~j~~h); and (~~k~~j) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (~~k~~i).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any

[29] **Note to Purchaser**: Lease amortization costs are subject to rate recovery and should not be treated as a debt-like item for purposes of a purchase price adjustment. See note 11 to the Kentucky Power 2020 audited financial statements for additional explanation.

symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use in the conduct of its business, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any ~~Order relating to any~~ Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii)

any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) ~~through~~ – (v) and (ix) – (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

~~"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.~~

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant ~~Proceedings" shall mean, collectively, the regulatory proceedings in WVPSC Docket Number [●] and KPSC Docket Number [●] relating to the replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.~~Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.[30]

[30] **Note to Purchaser**: Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with ~~the regulatory approvals obtains pursuant to~~ the Mitchell Plant ~~Proceedings~~Approvals, the proposed form of which to be filed with the applications ~~in~~for the Mitchell Plant ~~Proceedings~~Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, ~~Successor Operator~~Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the ~~regulatory approvals obtained pursuant to the~~ Mitchell Plant ~~Proceedings~~Approvals, the proposed form of which to be filed with the applications ~~in~~for the Mitchell Plant ~~Proceedings~~Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses ~~and~~, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business ~~for amounts not yet past due~~, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial

Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) ~~liens of lessors~~Encumbrances arising under any lease or sublease for Leased Real Property ~~for amounts not yet due~~, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period ending on or prior to the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company ~~or any of its Subsidiaries,~~ including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 11:59 p.m., Eastern time, on ~~the date immediately prior to~~ the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall ~~be deemed to occur after giving~~not include the effect ~~to~~of any ~~subsequent~~ payments~~, dividends~~ or ~~distributions~~deliveries of funds made ~~or payable to any Seller~~by or ~~any~~on behalf of the Purchaser or its Affiliates ~~(other than an Acquired Company) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies, in each case,~~in connection with the Closing pursuant to Section 1.3, Section 4.16(a), Section 4.16(b), Section 4.16(c) or Section 4.16(e), which payments and deliveries of funds shall be deemed to have been made or delivered on ~~or prior to~~ the Closing Date after the Reference Time.

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall ~~have the meaning ascribed to such term in the Confidentiality Agreement~~mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(~~iv~~v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto ~~provides as of the date hereof and/or expects~~is expected to provide ~~as of or~~in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than ~~an immaterial amount~~$[250,000] of products, services or Intellectual Property to ~~(A)~~ any of the Acquired Companies~~, and (B) a Seller or any of its Affiliates (other than an Acquired Company) Sellers' Affiliates~~); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided ~~by a Seller~~ (or ~~its Affiliates as contemplated in~~expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

~~"Specified Required Regulatory Approval" shall mean any Required Regulatory Approval or other assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals) is required from such Governmental Entity, in each case, other than any consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals (i) related to the NSR Consent Decree, (ii) of the WVPSC or (iii) of any Governmental Authority failing to provide any such consent, clearance, non-objection, expiration or termination of any waiting period, authorization or approval, or imposing any Legal Restraint, as a result of a failure to agree, conform or adhere to any term, condition, liability, obligation, commitment or sanction imposed by the WVPSC.~~

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean ~~$[_____]~~negative thirty-five million U.S. dollars (-$35,000,000).~~[21]~~

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to ~~and in connection with the negotiation and execution of this Agreement and the consummation of the transactions contemplated by this Agreement~~Transaction Expenses, and without duplication, amounts included in Indebtedness or ~~the~~ Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, and (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

~~[21] Note to Draft: To be provided separately to bidders.~~

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the ~~Closing. For~~Reference Time, including, for the avoidance of doubt, ~~Transaction Expenses shall include~~ (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii)~~, in each case, solely to the extent that any Acquired Company has or will have any Liability with respect to the foregoing~~.

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or ~~agent~~staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP LTD Plan	5.19

AEPSC Employee	Definition of Acquired Company Employee
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
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Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
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Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
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Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
~~[Equity Commitment~~	~~3.7(c)]~~
~~[Equity Financing~~	~~3.7(c)]~~
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
~~[~~Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
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Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
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Mitchell Employees	2.14(a)
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NERC	4.18
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Owned Real Property	Definition of Real Property

Parties	Preamble
Party	Preamble
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Pre-Closing Engagement	10.15
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Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
~~[~~Purchaser Guaranty	3.7(b)]
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SDN	3.5(b)
Section 205	4.5(e)
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Seller Indemnified Parties	9.2(b)
Seller Intellectual Property	4.10
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
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Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL[22]

See attached.

[Provided separately]

[22] Note to Draft: To be provided separately to bidders.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

Document comparison by Workshare 10.0 on Monday, March 14, 2022 10:25:52 PM

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Document 1 ID	file://C:\Users\MP076133\Desktop\Nickel - Mitchell\Stock Purchase Agreement\4. Project Nickel - SPA [Liberty Draft 9-30-2021].DOCX
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Deletions	610
Moved from	25
Moved to	25
Style changes	0
Format changes	0

Total changes	1377

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

[_____]

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and [_____], a [_____] ("Purchaser").[1] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

[1] Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity. **Note to AEP**: We are pleased to confirm that Algonquin Power & Utilities Corp. will guaranty and fully backstop the purchase price and other Purchaser obligations under the SPA through Closing. Purchaser is currently contemplated to be Liberty Utilities Co.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at [11:59 p.m.][2], Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:~~2~~

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates[3], stock powers or appropriate transfer ~~instructions~~instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable; ~~and~~

[2] **Note to Seller**: Discuss rationale. We find it unusual to have the Closing deemed to occur at the end of the day (including potential accounting impacts, and taking into account that the actual Closing is contemplated to take place in the AM).

~~[2] **Note to Purchaser**: Please see Section 4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.~~

[3] **Note to ~~Purchaser~~Seller**: ~~The Kentucky Power Shares are represented by a certificate. The~~Please provide evidence of Kentucky TransCo Shares ~~were issued in uncertificated~~being held in book entry form ~~on~~in the ~~books~~register of shareholders of Kentucky TransCo.

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instrument, in form reasonably acceptable to Purchaser, evidencing such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders of such Indebtedness and the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable

detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no

Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to [_____][4] or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

[4] **Note to Seller**: Discuss independent accounting firm.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies

of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable ~~and owned by~~, and will be transferred, conveyed, assigned and delivered to Purchaser at the ~~applicable Seller~~Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by share certificates and none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any

applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization ~~and~~, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. Sellers have made available to Purchaser true, complete and correct copies of the respective books, records and accounts of the Acquired Companies in all material respects. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. Since the Balance Sheet Date, none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to the Closing.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements ~~to be terminated pursuant to~~set forth on Section ~~4.8~~2.7(b) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the

Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the date of this Agreement ~~and~~or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an

Acquired Company or any of its Affiliates[5] to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies~~, except for filed Contracts in connection with the settlement of a Rate Proceeding~~;

(x) all material real property leases and all Master Leases;

(xi) all material Shared Contracts;[6]

(xii) ~~(xi)~~ all Contracts for Continuing Support Obligations;

(xiii) ~~(xii)~~ all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company or any of its Affiliates over the ~~remaining~~ term of such Contract in excess of $3,000,000, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) ~~(xiii)~~ all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the ~~remaining~~ term of such Contract in excess of $3,000,000;

(xv) ~~(xiv)~~ all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the ~~remaining~~ term of such Contract in excess of $3,000,000;

(xvi) all material Contracts related to Intellectual Property owned or used by an Acquired Company (other than non-exclusive licenses (A) to off-the-shelf or otherwise commercially available software involving payments by an Acquired Company in excess of $500,000 in any of the three calendar years preceding the date of this Agreement or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) ~~(xv)~~ all Collective Bargaining Agreements; and

(xviii) ~~(xvi)~~ all partnership, joint venture and joint ownership Contracts.

[5] **Note to Sellers**: We need to understand whether any such restrictive covenants would bind any Affiliate of Purchaser (e.g., its parent entity).

[6] **Note to Sellers**: We need to understand which contracts are subject to the covenant in Section 4.8(d).

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. ~~To the Knowledge of Sellers, Owned Intellectual Property~~Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. (i) The Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) ~~to the Knowledge of Sellers~~except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, during the last three (3) years, there has been no ~~material~~ breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any ~~unremedied~~ material malfunctions or material failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a

Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof~~, to the Knowledge of Sellers,~~ is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property.

(c) An Acquired Company is the sole owner and has good and valid title to, or in the case of leased personal property assets, valid leasehold interests in, or otherwise has rights in, all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business as currently conducted and proposed to be conducted after the Closing Date, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description

thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could ~~reasonably be expected to~~ result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) None of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) No Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) ~~(g)~~ With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) ~~(h)~~ No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) ~~(i)~~ This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, ~~to the Knowledge of Sellers,~~ no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to

the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property ~~(except as authorized under Environmental Laws or Environmental Permits)~~ or at any other location for which any Acquired Company may be liable, and Hazardous Materials are not otherwise present at any such location in quantities or circumstances that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability ~~of a third party~~ under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

~~(g) This Section 2.16 contains the sole representations and warranties of Sellers with respect to Environmental Laws or Environmental Permits.~~

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all ~~property and casualty~~ insurance policies covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full ~~except where in the process of renewal~~when due, (iv) all matters that~~, to the Knowledge of Sellers,~~ are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal [(other than written notice of nonrenewals issued by insurers in the ordinary course of business as listed on Section 2.19(v) of the Seller Disclosure Schedule)][7] has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and

[7] **Note to Sellers**: For which policies have notice of nonrenewals been issued?

to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER[4]

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of [___]; Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) ~~the filing by Purchaser and Sellers of a formal version of the joint voluntary notice pursuant to the DPA for the purpose of receiving the CFIUS Clearance or (f)~~[8] any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to

[4] ~~NTD: To be conformed to the corresponding representations of Sellers, as applicable.~~

[8] **Note to Seller**: Reference to CFIUS filing removed since CFIUS Clearance will be included as a Required Regulatory Approval.

make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (~~f~~e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or ~~assets are~~business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of ~~their Affiliates or any of their respective~~its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty")[~~5~~9]. The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.[~~6~~10]

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (4) the satisfaction of the conditions set forth in Article VII[~~7~~11] and (~~2~~5) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies ~~shall, after giving effect to the transactions contemplated by this Agreement~~(assuming the accuracy of the representations in Article II) will, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to

[~~5~~9] **Note to Purchaser**: Purchaser Guaranty to be governed by New York law and provide for Guarantor's submission to the jurisdiction of New York courts.

[~~6~~10] **Note to AEP**: Algonquin Power & Utilities Corp. will be the Guarantor. We are also contemplating a debt commitment sized large enough to pay the full purchase price and may also raise equity. Once financing plans are finalized, we may add customary cooperation provisions to the extent necessary.

[~~7~~11] **Note to Purchaser**: Article VII already includes conditions as to bringdown of representations, warranties and covenants of Sellers, with the appropriate materiality standards and scrapes. **Note to Sellers**: The listed assumptions and scrapes are being used and referred to in a different context.

carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon,

any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) ~~in connection with~~ actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action at least three (3) Business Days prior to taking any such action or, if such prior notice is not practicable, as soon as reasonably practicable), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) at least three (3) Business Days prior to taking any such COVID-19 Measure or, if such prior notice is not practicable, as soon as reasonably practicable), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company[~~8~~12] and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business,[~~9~~13] (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a),

[~~8~~12] **Note to AEP**: Discuss timing and approach with respect to Rockport Deferred Regulatory Asset, ROE true-up and related filings.

[~~9~~13] **Note to AEP**: Discuss, including in the context of net working capital. **Note to Purchaser**: AEP plans to have Kentucky Power withdraw from the receivables factoring facility prior to the anticipated Closing Date so that customer receivables will begin accruing and will be included in NWC as of the Closing Date.

(F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) [Commercial Hedges entered into in the ordinary course of business][~~10~~14], (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)), (G) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and the Mitchell Plant O&M Agreement, and (H) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter[~~11~~15]);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire or terminate any Acquired Company Employee at the Vice President level (or its equivalent) or higher, or transfer any Acquired Company Employee ~~who performs material services for the Business~~ into or out of the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee~~, other than in the ordinary course of business~~; (D) adopt, amend or terminate any Seller Benefit Plan or (~~D~~E) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

[~~10~~14] **Note to AEP**: Discuss, including in the context of what is ordinary course.

[~~11~~15] **Note to AEP**: Discuss, as this exception seems potentially very broad.

(v) (A) recognize any union or other labor organization as the representative of any of the employees of the Acquired Companies, or (B) enter into, extend or renew (including by automatic extension or renewal), materially amend or terminate any Collective Bargaining Agreement applicable to employees of any Acquired Company, in each case except as required by applicable Law;[16]

(vi) ~~(v)~~ implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) ~~(vi)~~ (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) ~~(vii)~~ create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement ~~or successor utility money pool program of Seller~~[17], and ~~its Affiliates,~~ (C) ~~in connection with the refinancing of existing maturing Indebtedness of an Acquired Company and (D)~~[18] under the Debt Agreements;

(ix) ~~(viii)~~ cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) ~~(ix)~~ issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) ~~(x)~~ make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

[16] **Note to Sellers**: Please provide and schedule details as to any terms being renegotiated.

[17] **Note to Sellers**: Any such successor utility money pool program affecting the Acquired Companies should remain subject to the prior consent of Purchaser unless satisfactory guiderails are proposed.

[18] **Note to Sellers**: Any refinancing should remain subject to the prior consent of Purchaser.

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) ~~(xi)~~ except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) ~~(xii)~~ dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) ~~(xiii)~~ (A) settle, discharge or compromise any Action~~,~~ (except for any Action in connection with obtaining the Mitchell Plant Approvals~~,~~ in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate ~~during~~without any ~~12-month period, or~~admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) ~~(xiv)~~ subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) ~~(xv)~~ engage in any material new line of business;

(xviii) ~~(xvi)~~ cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless ~~(A)~~ such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage ~~or (B) such coverage is no longer available on commercially reasonable terms consistent with Good Utility Practice~~; or

(xix) ~~(xvii)~~ agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller

has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.~~12~~19

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other than those which are employed by or perform services for the Acquired Companies. ~~Notwithstanding anything herein to the contrary, Sellers and their Affiliates may negotiate, extend or renew any such Collective Bargaining Agreements in their sole discretion.~~ Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

(e) To the extent any Ancillary Agreement becomes effective prior to Closing, none of Seller nor any of its Affiliates (including any Acquired Company) shall take or consent to any non-ministerial or other material action thereunder without the express prior written consent of Purchaser.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Material Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) ~~Unless otherwise provided in, or as may be necessary in connection with the performance of services under, the Transition Services Agreement or the Mitchell Plant O&M Agreement, each~~Each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its

~~12~~19 **Note to AEP**: To be confirmed/discussed in the context of the capital plan.

confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and

such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a ~~pre-filing version of a~~ joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to ~~31 CFR 800.501(g) of~~ the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than ~~sixty~~thirty (~~60~~30) days following the ~~Effective Date~~date of such notification from CFIUS, file a ~~formal version of the~~ joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by

Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated

hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes

with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity~~,~~ or other Person containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition")~~[13] [14]~~; provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing~~; and provided, further, that the restrictions described in this sentence shall not apply to the Sellers' actions in connection with obtaining the Mitchell Plant Approvals, but, for the avoidance of doubt, Purchaser's obligation to consummate the Closing shall remain subject to satisfaction of the condition set forth in Section 7.2(f)~~. Without the prior written consent of Purchaser, ~~except in connection with obtaining the Mitchell Plant Approvals,~~ Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer ~~to~~or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals, the CFIUS Clearance and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section

~~[13] **Note to Purchaser**: Any terms, conditions, obligations, etc. arising in connection with the Mitchell Plant Approvals to be included in the Burdensome Condition bucket. Purchaser and Sellers to discuss an economic adjustment, if necessary, prior to signing to the extent the upcoming WVPSC order imposes unanticipated obligations or liabilities on Kentucky Power that would apply post-Closing in respect of ELG obligations at Mitchell.~~

~~[14] **Note to Purchaser**: Some ELG capital expenditures will result in incremental savings in CCR capital expenditures borne by both owners, and the Mitchell Plant Ownership Agreement will be updated to reflect, consistent with Kentucky Power's testimony filed in the KPSC proceeding, that a portion of ELG capital expenditures that offset CCR compliance costs should be borne by Kentucky Power.~~

205") the items listed as subject to Section 205 of the FPA on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. ~~Without limiting the generality of the foregoing, nothing in this Agreement shall prohibit the Acquired Companies from initiating, continuing to pursue, appealing, settling, or entering into any stipulation with respect to the Mitchell Plant Approvals and any Rate Proceeding.~~ Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including ~~responding to inquiries~~ as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and~~, to the extent practicable,~~ consider and reflect any ~~timely~~ comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6 ~~and the failure to receive any rulings, orders or consents in respect of the Additional Regulatory Filings and Consents or, if applicable, such third party consents shall not be taken into account with respect to whether any condition to the Closing set forth in Section 7.1 shall have been fulfilled~~. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated

hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives.[~~15~~20] For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to[, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter,][21] (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. [To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing.] [Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.][22]

(b) [In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP

[~~15~~20] **Note to Purchaser**: See revised definition of "Representative" that includes additional persons beyond those specified in the Confidentiality Agreement.

[21] **Note to Sellers**: Which Intercompany Arrangements require such authorization, and are there any anticipated issues / hurdles to obtaining such authorizations?

[22] **Note to Sellers**: Subject to review. Please describe what is contemplated.

and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.][23]

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to ~~six~~nine (~~6~~9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an

[23] **Note to Sellers**: Subject to review, including the specific agreement that outlines the commitment to jointly participate with AEP.

Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date or as soon as reasonably practicable following the Closing, cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating ~~or referring to~~: the words or ~~letters~~acronyms "AEP", "American Electric

Power" or "Ohio Power" ~~(or any variant thereof)~~, the phrases "Boundless Energy" or "America's Energy Partner" ~~(or any variant thereof)~~, the AEP parallelogram logo ~~(or any variant thereof)~~ or the AEP incomplete parallelogram logo ~~(or any variant thereof),~~ (collectively, the "Seller Marks"), ~~any Seller or any Seller's business, or any reference that in the eyes of a reasonable consumer could be confused with a reference to any Seller or the Seller Marks,~~ from any public-facing properties or assets ~~relating to~~in the possession or control of the Acquired Companies and, within ~~thirty~~ninety (~~30~~90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.[16]

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every

[16] ~~**Note to AEP**: Parties to discuss and confirm whether there is any shared IP between the sellers and the acquired companies, other than trademarks (trade secrets, patents, unpatented inventions, etc.), where a mutual covenant not to sue on such IP may make sense.~~

name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party

otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.[~~17~~24]

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

[~~17~~24] **Note to AEP**: These terms are subject to further potential conforming in connection with the Compliance Agreement.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters[25] mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement, and to agree on any appropriate modifications to such services (including the duration thereof) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of the date that is 120 days after the date of this Agreement and the Closing Date, to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and

[25] **Note to Sellers**: Parties to discuss appropriate schedule and what is necessary for the business to stand up on its own.

clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $~~50,000,000~~[●][26].

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.~~18~~[27]

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Schedule 4.20(a) (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

[26] **Note to Sellers**: Cap subject to discussions, including in the context of whether these costs can be passed on to customers.

~~18~~[27] Note to Draft: Subject to discussion by parties as to the appropriate scope of the Mitchell Assets.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith.[~~19~~28] Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. ~~Notwithstanding anything to the contrary herein, Sellers and their Affiliates shall have the right to prosecute any petitions, declarations or filings during the Interim Period in furtherance of the Mitchell Plant Approvals.~~ For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date ~~and~~, (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, and (iii) any Contract, undertaking, term, condition, liability, obligation, commitment, settlement, conciliation, discharge or sanction imposed on or agreed to in connection with any Rate Proceeding, in each case of clauses (i) through (iii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being

[~~19~~28] **Note to Purchaser**: AEP now anticipates that the filings to obtain the Mitchell Plant Approvals would be made shortly after the Effective Date.

covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. ~~20~~29 Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), ~~Seller~~Sellers shall use ~~its~~ reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter)~~21~~30. Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies, funds or reserves of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies, funds or reserves do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies, funds or reserves in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, ~~Seller~~Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. Sellers shall cause to be maintained in full force and effect all insurance policies in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to benefit therefrom following Closing consistent with this Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between American Electric Power Service Corporation and [Nationwide] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause

~~20~~29 **Note to Purchaser**: Deleted language duplicative of Section 4.1(a)(xvi). **Note to Sellers**: We have reinserted the deleted language. We do not believe it is duplicative of Section 4.1(a)(xvi), an interim operating covenant, but simply provides that Sellers will take no action following Closing with respect to the existing insurance policies that is inconsistent with this Section 4.22.

[redacted]

the Acquired Companies to have the same rights and privileges as American Electric Power Service Corporation under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), ~~subject to any required regulatory approvals or third party consents,~~ Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing ~~and~~or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, ~~subject to any required regulatory approvals or third party consent,~~ such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration ~~(but at no cost to each Seller of any or its Affiliates)~~, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1, subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, and will cause the Acquired Companies to, and will use their reasonable efforts to cause their Affiliates and Representatives to, use its or their reasonable efforts to cooperate with Purchaser as reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtainment of financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser for all or any part of the Financing, including making appropriate officers (with appropriate seniority and expertise) reasonably available, with appropriate advance notice, for participation in a reasonable number of lender

or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources") as promptly as practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing;

(iii) request that the Acquired Companies' independent accountants participate in accounting due diligence sessions and provide customary consents (including consents to the inclusion or incorporation by reference of the accountants' audit reports with respect to the financial statements of the Company included in any filing or registration statement of Purchaser with the SEC, Canadian securities regulator or any prospectus, offering memoranda or private placement memoranda) and comfort letters (including "negative assurance" comfort) to the extent required in connection with the marketing and syndication of any financing or as are customarily required in an offering of securities of the type contemplated by any such financing, which letters such accountants would be prepared to issue at the time of pricing and closing of any offering;

(iv) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(v) reasonably assist Purchaser in obtaining any credit ratings from rating agencies;

(vi) providing reasonable assistance to the Purchaser to produce financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting the Purchaser in the preparation of such financial statements; and

(vii) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable;

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing, other than as required by this Section 4.25; and (B) Sellers will, and will cause their Affiliates to, promptly update any information in respect of the Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain as of the time provided any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) The Sellers agree to provide, and will use their reasonable efforts to cause their Affiliates and Representatives to provide, reasonable assistance to the Purchaser for a period of three months following Closing to produce the financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting the Purchaser in the preparation of financial statements.

(c) The Sellers agree that none of the information supplied or to be supplied by or that is requested to be reviewed by the Sellers or the Acquired Companies for inclusion or incorporation in any public disclosure of the Purchaser or its Affiliates, at the date it is provided, contains any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(d) Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require Seller or the Acquired Companies to cooperate to the extent it would require the disclosure of information which the Seller or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Seller or any of the Acquired Companies or violate any Applicable Law to which the Seller or any of the Acquired Companies is a party.

(e) Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be

employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate ~~at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee,~~ and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who~~,~~ are eligible as of the Closing Date~~, may have become eligible~~ for retiree medical coverage under any Seller Benefit Plan ~~after the Closing Date had they remained eligible for coverage under the Seller Benefit Plans,~~ shall remain ~~able to become~~ eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing. [~~22~~31]

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and

[~~22~~31] Note to Purchaser: Note that Seller is not requiring the buyer to provide defined benefit plan, equity-based compensation and/or long-term compensation benefits. Rather, the proposed covenant merely requires the value of any such benefits to be included in the calculation of benefits in the "aggregate" that must be provided.

out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the

Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 ~~Post-Closing Date Employment Claims. Except as expressly provided in this Agreement, Purchaser shall indemnify, defend and hold Sellers and their Affiliates harmless from and against any and all Liability of any kind or nature involving or related to the employment of the Continuing Employees by Purchaser or its Affiliates after the Closing, including any Liability related to any employee benefit plan sponsored or maintained by Purchaser or its ERISA Affiliates after the Closing or the termination of employment from Purchaser or one of its Affiliates on or following the Closing Date.~~[Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or

otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with ~~or been made aware of~~ as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had first contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to ~~any solicitation (or any hiring as a result of~~(x) any solicitation~~) (x)~~ that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of

Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who ~~is~~for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable ~~or (z) made by employees of Sellers or their Affiliates~~, other than ~~hiring managers or their authorized designees~~as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the AEPSC Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of AEPSC Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such AEPSC Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such AEPSC Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of AEPSC Employees (or the omission of any person from that list).

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity

and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals[23] shall have been duly obtained[24][32], and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) CFIUS Clearance. The CFIUS Clearance shall have been obtained and be in full force and effect.

(e) Mitchell Plant Approvals. The Mitchell Plant Approvals[25][33] shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

[23] ~~**Note to Purchaser:** Mitchell Plant Approvals have been removed from the Required Regulatory Approvals set forth on Section A(v) of the Seller Disclosure Letter. There would no longer be any WVPSC approvals included in the definition of Required Regulatory Approvals. The Required Regulatory Approvals would be: FERC 203, HSR, KPSC, FCC, CFIUS and financing approvals under FERC 204 and with the KPSC (subject to Sellers' comfort on Purchaser's permanent financing plan, once finalized and disclosed to Sellers prior to signing, to the extent it involves pledging utility assets or equity).~~

[24][32] **Note to Purchaser:** Deleted language covered in the definition of Final Order.

[25][33] **Note to Purchaser:** Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval ~~or~~, Additional Regulatory Filing and Consent, CFIUS Clearance, amendment of the NSR Consent Decree contemplated by Section 4.13 or other necessary consent, clearance, non-objection, expiration or termination of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition (or any conditions or circumstances giving rise or that would reasonably be expected to give rise thereto).

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this

Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section

8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser ~~a~~an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.[~~26~~34]

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval[~~27~~] ~~or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree~~), Section 7.1(b) or Section 7.1(d) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval ~~or is in connection with the assertion by a Governmental Entity that an approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity and does not relate to the NSR Consent Decree~~), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a), 7.1(b) or 7.1(d) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or ~~Section 4.20(d)~~otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a)~~, Section 7.2(b) and~~ through Section 7.2(~~d~~e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable

[~~26~~34] **Note to Purchaser**: This section and the closing conditions revised with the intent that, if the Mitchell Plant Approvals are not obtained, then Purchaser would not owe the Termination Fee. Adverse changes to the Mitchell agreements with respect to Kentucky Power would be factored into the determination of the Burdensome Condition. If the cumulative adverse impact of conditions/settlements relating the Required Regulatory Approvals (which no longer include WVPSC approvals) and changes to the Mitchell agreements required by the Mitchell Plant Approvals result in a Burdensome Condition, then Purchaser would not be obligated to close but would be required to pay the Termination Fee if it elects not to close based upon the Burdensome Condition.

[~~27~~] ~~**Note to Purchaser:** Mitchell Plant Approvals have been removed from the Required Regulatory Approvals set forth on Section A(v) of the Seller Disclosure Letter. There would no longer be any WVPSC approvals included in the definition of Required Regulatory Approvals. See note above in Section 7.1(b).~~

of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $[_____]~~2835~~ (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages ~~resulting from the termination of this Agreement~~ (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with ~~the~~any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the

[redacted]

date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage

thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. In ~~no~~the event ~~shall~~of termination of this Agreement, Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to ~~fifty percent (50%)~~ the Base Purchase Price, and ~~in no event shall~~ Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies,~~ or~~ (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing or (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA.

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party or (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a

covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling

person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to ~~Willful Breach or~~ Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

[Company]
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions ~~or~~for obtaining the Required Regulatory Approvals~~, the Mitchell Plant Approvals~~ or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless

expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York,

within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client

confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

[PURCHASER]

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (an "AEPSC Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. ~~For the avoidance of doubt, any purchase~~Notwithstanding anything to the contrary in this Agreement, amounts ~~actually~~ paid ~~by Kentucky Power prior to the Reference Time pursuant to Section 4.19~~or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be ~~considered capital expenditures for purposes of calculating the~~ deemed a "Capital Expenditures Amount".

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the ~~45 day~~ review period ~~and further~~, or, if applicable, investigation period ~~(if any)~~ pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; ~~or~~ (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or other proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the

Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and [Liberty Utilities Co., a Delaware corporation]/[Purchaser].

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those ~~condified~~codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response,

remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and American Electric Power Service Corporation, a New York corporation, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection,

economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount;[29] (f) any Liabilities under leases that are (or should be) capitalized in accordance with GAAP or FERC Accounting Requirements, (g) any dividends declared but not yet paid; (~~g~~h) any Liabilities in respect of physical asset retirement obligations to the extent such Liabilities would not currently be directly recoverable in rates charged to customers of the Acquired Companies, (i) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing, (j) any unpaid Liabilities with respect to severance compensation; (~~h~~k) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (~~i~~l) use tax reserves and any additional use tax liability in connection with any sales and use tax audit in Kentucky; (m) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (~~h~~l); and (~~j~~n) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (~~i~~m).

[29] ~~**Note to Purchaser**: Lease amortization costs are subject to rate recovery and should not be treated as a debt-like item for purposes of a purchase price adjustment. See note 11 to the Kentucky Power 2020 audited financial statements for additional explanation.~~

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use ~~in the conduct of its business~~pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required

Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) ~~(v) and (ix)~~ through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.~~30~~36

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

~~30~~36 **Note to Purchaser**: Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by

a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period ending on or prior to the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all

appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

["Reference Time" shall mean 11:59 p.m., Eastern time, on the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall not include the effect of any payments or deliveries of funds made by or on behalf of the Purchaser or its Affiliates in connection with the Closing pursuant to Section 1.3, Section 4.16(a), Section 4.16(b), Section 4.16(c) or Section 4.16(e), which payments and deliveries of funds shall be deemed to have been made or delivered on the Closing Date after the Reference Time.][37]

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

[37] **Note to Sellers**: To discuss in the context of closing time, including how this will practically be accounted for.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $[250,000] of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-five million U.S. dollars (-$35,000,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken

into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, ~~and~~ (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and (viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
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Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
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AEP LTD Plan	5.19
AEPSC Employee	Definition of Acquired Company Employee
AEP TransCo	Preamble
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Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
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Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
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Purchaser	Preamble
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Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
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SDN	3.5(b)
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Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Intellectual Property	4.10
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Termination Fee	8.3(a)
Transfer Taxes	6.6
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Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

[Provided separately]

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

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Format changes	0

Total changes	590

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

~~[_____]~~LIBERTY UTILITIES CO.

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and ~~[_____], a [_____]~~Liberty Utilities Co., a Delaware corporation ("Purchaser").[1] Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

[1] ~~Note to Draft: Purchaser to be a creditworthy entity or credit support to be provided by a creditworthy entity. **Note to AEP**: We are pleased to confirm that Algonquin Power & Utilities Corp. will guaranty and fully backstop the purchase price and other Purchaser obligations under the SPA through Closing. Purchaser is currently contemplated to be Liberty Utilities Co.~~

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at ~~[11:59 p~~12:01 a.m.~~]~~[2], Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates[3], stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of

~~[2] **Note to Seller**: Discuss rationale. We find it unusual to have the Closing deemed to occur at the end of the day (including potential accounting impacts, and taking into account that the actual Closing is contemplated to take place in the AM).~~

~~[3] **Note to Seller**: Please provide evidence of Kentucky TransCo Shares being held in book entry form in the register of shareholders of Kentucky TransCo.~~

their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, ~~instrument~~instruments or other evidence, in form reasonably acceptable to Purchaser, ~~evidencing~~reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing ~~pursuant to~~ pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo

Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to ~~[_____]~~[4]KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the

[4] ~~**Note to Seller**: Discuss independent accounting firm.~~

Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies

of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one or more share certificates and, as of the Effective Date[1], none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and

[1] **Note to Purchaser**: Added for flexibility to allow the Kentucky TransCo Shares to become certificated (if it is desirable to do so) without violating a Fundamental Representation. Regardless of the form of the shares at Closing, Sellers are obligated under Section 1.3(b)(i)(A) to deliver the appropriate transfer powers or instruments to Purchaser.

delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. ~~Sellers have made available to Purchaser true, complete and correct copies of the respective books, records and accounts of the Acquired Companies in all material respects.~~ The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice.[2] ~~Since the Balance Sheet Date, none of the~~

[2] Note to Purchaser: Retroactive scheduling of this type would be a burdensome requirement given the size of the business. Purchaser has been provided with voluminous schedules and other representations and warranties about the current assets, properties, and liabilities of the business.

~~Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to the Closing.~~

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 2.7(b) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the ~~date of this Agreement~~Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company ~~or any of~~, or that would apply to Purchaser or its Affiliates[5] following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding[3];

(x) ~~all material real property leases and~~ all Master Leases;

(xi) all ~~material~~ Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;[6]

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company ~~or any of its Affiliates~~ over the term of such Contract in excess of $3,000,000 and pursuant to which an Acquired Company has ongoing obligations, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which an Acquired Company has ongoing obligations;

[5] ~~**Note to Sellers**: We need to understand whether any such restrictive covenants would bind any Affiliate of Purchaser (e.g., its parent entity).~~

[3] **Note to Purchaser**: It would be burdensome to schedule all filed rate settlements.

[6] ~~**Note to Sellers**: We need to understand which contracts are subject to the covenant in Section 4.8(d).~~

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) ~~all material~~ Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) ~~to~~for off-the-shelf or otherwise commercially available software ~~involving payments by an Acquired Company in excess of $500,000 in any of the three calendar years preceding the date of this Agreement~~ or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) ~~The~~the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or

controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) ~~except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect,~~ during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any ~~material~~ malfunctions or ~~material~~ failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or, in the event of related cases arising out of a single event or related cases that arise out of a series of like events, in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property.

(c) ~~An Acquired Company is the sole owner and has good and valid title to, or in the case of leased personal property assets, valid leasehold interests in,~~Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or ~~otherwise~~ has contractual rights ~~in,~~to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business ~~as currently conducted and proposed to be conducted after the Closing Date~~, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) ~~None~~Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) ~~No~~Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).[4]

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no

[4] **Note to Purchaser**: AEP continues to offer retiree medical, dental and life insurance benefits for its employees who were hired prior to January 1, 2014. A portion of this liability has been allocated to Kentucky Power Business Units.

pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is

in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable~~, and Hazardous Materials are not otherwise present at any such location in quantities or circumstances~~ that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each

Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal ~~[~~(other than written notice of nonrenewals issued by insurers in the ordinary course of business ~~as listed on Section 2.19(v) of the Seller Disclosure Schedule)]~~[7]) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that,

[7] ~~**Note to Sellers**: For which policies have notice of nonrenewals been issued?~~

except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of ~~[____];~~Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a

modification to the NSR Consent Decree, or (e)[8] any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

[8] ~~**Note to Seller**: Reference to CFIUS filing removed since CFIUS Clearance will be included as a Required Regulatory Approval.~~

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty")[9]. The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.[10]

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2~~) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3~~) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (4~~3~~) the satisfaction of the conditions set forth in Article VII[11] and (5~~4~~) immediately prior to giving effect to the

[9] ~~**Note to Purchaser**: Purchaser Guaranty to be governed by New York law and provide for Guarantor's submission to the jurisdiction of New York courts.~~

[10] ~~**Note to AEP**: Algonquin Power & Utilities Corp. will be the Guarantor. We are also contemplating a debt commitment sized large enough to pay the full purchase price and may also raise equity. Once financing plans are finalized, we may add customary cooperation provisions to the extent necessary.~~

[11] ~~**Note to Purchaser**: Article VII already includes conditions as to bringdown of representations, warranties and covenants of Sellers, with the appropriate materiality standards and scrapes. **Note to Sellers**: The listed assumptions and scrapes are being used and referred to in a different context.~~

transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies ~~(assuming the accuracy of the representations in Article II)~~ will, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar

with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action ~~at least three (3) Business Days~~ prior to taking any such action as may be reasonably practicable or, if such prior notice is not reasonably practicable, as ~~soon as~~may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) ~~at least three (3) Business Days~~ prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such prior notice is not practicable, as ~~soon as~~may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company[~~12~~] and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business,[~~13~~] (E) in connection with settlements,

[~~12~~] ~~**Note to AEP**: Discuss timing and approach with respect to Rockport Deferred Regulatory Asset, ROE true-up and related filings.~~

[~~13~~] ~~**Note to AEP**: Discuss, including in the context of net working capital. **Note to Purchaser**: AEP plans to have Kentucky Power withdraw from the receivables factoring facility prior to the anticipated Closing Date so that~~

compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) ~~[~~Commercial Hedges entered into in the ordinary course of business~~]~~[14], (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)), (G) the Mitchell Plant Ownership Agreement (and the Mitchell Interest Purchase Agreement contemplated thereby) and the Mitchell Plant O&M Agreement, and (H) any Contract entered into, assigned or amended in support of the implementation of the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter[~~15~~5]);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire or terminate any Acquired Company Employee at the Vice President level (or its equivalent) or higher, or transfer any Acquired Company Employee who performs material services for the Business into or out of the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any

~~Kentucky Power withdraw from the receivables factoring facility prior to the anticipated Closing Date so that customer receivables will begin accruing and will be included in NWC as of the Closing Date.~~

[14] ~~**Note to AEP**: Discuss, including in the context of what is ordinary course.~~

[~~15~~5] **Note to AEP**: Discuss, as this exception seems potentially very broad.

Acquired Company Employee~~; (D) adopt, amend or terminate any Seller Benefit Plan~~, other than in the ordinary course of business, or (~~E~~D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) ~~(A) recognize any union or other labor organization as the representative of any of the employees of the Acquired Companies, or (B) enter into, extend or renew (including by automatic extension or renewal), materially amend or terminate any Collective Bargaining Agreement applicable to employees of any Acquired Company, in each case except as required by applicable Law;~~[16] [Reserved];[6]

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement~~[17]~~, and (C)~~[18]~~ under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

~~[16] **Note to Sellers**: Please provide and schedule details as to any terms being renegotiated.~~

[6] **Note to Purchaser:** See CBA consent right added to Section 4.1(d).

~~[17] **Note to Sellers**: Any such successor utility money pool program affecting the Acquired Companies should remain subject to the prior consent of Purchaser unless satisfactory guiderails are proposed.~~

~~[18] **Note to Sellers**: Any refinancing should remain subject to the prior consent of Purchaser.~~

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless (A) such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage or (B) such coverage is no longer available on commercially reasonable terms consistent with Good Utility Practice; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.[19]

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group other thanin addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be.

(e) To In the extentevent that any Ancillarymaterial amendment or modification or extension of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Acquired Companies) contains terms and conditions that differ in any material and adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such material amendment or modification or extension shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Seller norSellers or any of itstheir Affiliates (including any Acquired Company) shall take or consent to any non-ministerial or other material actionwaiver, amendment or modification[7] thereunder without the express prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Material Contract[8] or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall

[19] **Note to AEP**: To be confirmed/discussed in the context of the capital plan.

[7] **Note to Purchaser**: The Mitchell owners will need to continue operating Mitchell in the ordinary course of business which may involve taking actions or making decisions, both before and after the new Mitchell agreements are executed.

[8] **Note to Purchaser**: AEP cannot agree to violate contracts (whether or not a Material Contract) but the proviso obligates AEP to work toward alternate arrangements.

collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) ~~Each~~Unless otherwise provided in the Transition Services Agreement[9], each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a

[9] **Note to Purchaser**: Some data and information will be transitioned over the TSA term.

result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the

United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional

Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals

and the Mitchell Plant Approvals[10], in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity ~~or other Person~~ containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any

[10] **Note to Purchaser**: Mitchell Plant Approvals added to HOHW covenant to align with the proviso in the last sentence of Section 4.5(d).

terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals~~, the CFIUS Clearance~~ and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205~~ of the FPA~~ on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in,

any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives.[20] For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to[, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter,]][21][11] (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of

[20] **Note to Purchaser**: See revised definition of "Representative" that includes additional persons beyond those specified in the Confidentiality Agreement.

[21][11] **Note to Sellers**: Which Intercompany Arrangements require such authorization, and are there any anticipated issues / hurdles to obtaining such authorizations? **Note to Purchaser**: Section 2.4(a) of the Sellers Disclosure Letter lists the anticipated approvals.

their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. [To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing.][Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.][22]

(b) [In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.][23][12]

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially

[22] **Note to Sellers**: Subject to review. Please describe what is contemplated.

[23][12] **Note to Sellers**: Subject to review, including the specific agreement that outlines the commitment to jointly participate with AEP. **Note to Purchaser**: Schedule to be included in Disclosure Letter to further describe the anticipated arrangement.

reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such

three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date ~~or as soon as reasonably practicable following the Closing,~~ cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or

in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without

limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.[24]

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from

[24] ~~**Note to AEP**: These terms are subject to further potential conforming in connection with the Compliance Agreement.~~

joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or

their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price").

Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters[25] mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business ~~to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices~~ without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement~~, and~~. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business ~~on a stand-alone basis in the ordinary course in accordance with Good Utility Practices~~ without disruption or interruption, but taking into account Purchaser's use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for

[25] ~~**Note to Sellers**: Parties to discuss appropriate schedule and what is necessary for the business to stand up on its own.~~

the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of the date that is 120 days after the date of this Agreement and the Closing Date, to be effective as of the Closing Date, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $~~[●]~~[26] 10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.~~[27]~~

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Schedule 4.20(a) (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor

~~[26] **Note to Sellers**: Cap subject to discussions, including in the context of whether these costs can be passed on to customers.~~

~~[27] Note to Draft: Subject to discussion by parties as to the appropriate scope of the Mitchell Assets.~~

Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith.[28] Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date~~,~~ and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, ~~and (iii) any Contract, undertaking, term, condition, liability, obligation, commitment, settlement, conciliation, discharge or sanction imposed on or agreed to in connection with any Rate Proceeding,~~ in each case of clauses (i) ~~through~~and (~~iii~~ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

[28] ~~**Note to Purchaser**: AEP now anticipates that the filings to obtain the Mitchell Plant Approvals would be made shortly after the Effective Date.~~

~~(e) Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith.~~

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. [29] Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter)[30]. Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies~~, funds or reserves~~ of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies~~, funds or reserves~~ do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies~~, funds or reserves~~ in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any

[29] ~~**Note to Purchaser**: Deleted language duplicative of Section 4.1(a)(xvi). **Note to Sellers**: We have reinserted the deleted language. We do not believe it is duplicative of Section 4.1(a)(xvi), an interim operating covenant, but simply provides that Sellers will take no action following Closing with respect to the existing insurance policies that is inconsistent with this Section 4.22.~~

[redacted]

issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. Sellers shall ~~cause to be maintained in full force and effect all insurance policies in place for the benefit of the Acquired Companies prior to Closing and shall~~ not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to ~~benefit therefrom following~~file claims for losses incurred prior to Closing consistent with ~~this Section 4.22~~the immediately preceding sentence. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between ~~American Electric Power Service Corporation~~AEPSC and [Nationwide][13] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as ~~American Electric Power Service Corporation~~AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account

[13] **Note to Draft**: Subject to confirmation.

any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies ~~to,~~ and ~~will use their reasonable efforts to cause~~ their Affiliates and Representatives to~~, use its or their reasonable efforts to~~) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and ~~obtainment of~~obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser ~~for all or any part of~~ in connection with the Financing, including making appropriate senior officers ~~(with appropriate seniority and expertise)~~ reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing~~:~~, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records; and[14]

~~(iii) request that the Acquired Companies' independent accountants participate in accounting due diligence sessions and provide customary consents (including consents to the inclusion or incorporation by reference of the accountants' audit reports with respect to the financial statements of the Company included in any filing or registration statement of Purchaser with the SEC, Canadian securities regulator or any prospectus, offering memoranda or private placement memoranda) and comfort letters (including "negative assurance" comfort) to the extent required in connection with the marketing and syndication of any financing or as are customarily required in an offering of securities of the type contemplated by any such financing, which letters such accountants would be prepared to issue at the time of pricing and closing of any offering;~~

~~(iv) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money~~

[14] **Note to Draft**: Clause (iii) deleted because lenders' due diligence will not be a condition to the financing per the commitment papers.

~~laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;~~

~~(v) reasonably assist Purchaser in obtaining any credit ratings from rating agencies;~~

(iii) ~~(vi)~~ [15][16]providing reasonable assistance to the Purchaser to produce financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting the Purchaser in the preparation of such financial statements; ~~and~~provided, that neither the Seller nor its Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither Seller nor its Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

~~(vii) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable;~~

[17]provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing~~, other than as required by this Section 4.25~~; and (B) Sellers will~~,~~ use commercially reasonable best efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of the Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) ~~The Sellers agree to provide, and will use their reasonable efforts to cause their Affiliates and Representatives to provide, reasonable assistance to the Purchaser for a period of three months following Closing to produce the financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting the Purchaser in the preparation of financial statements.~~Purchaser shall indemnify and hold harmless the Seller and its Affiliates and their respective

[15] **Note to Draft**: Clause (iv) deleted because KYC and related information to come from the Purchaser and its affiliates and not involve the Seller and its affiliates.

[16] **Note to Draft**: Clause (v) deleted because already covered by clauses (i) and (ii).

[17] **Note to Draft**: Clause (vii) deleted because lenders' due diligence will not be a condition to the financing per the commitment papers.

directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(b) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Seller and its Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(b).

~~(c) The Sellers agree that none of the information supplied or to be supplied by or that is requested to be reviewed by the Sellers or the Acquired Companies for inclusion or incorporation in any public disclosure of the Purchaser or its Affiliates, at the date it is provided, contains any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.~~

(c) ~~(d)~~ Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the good faith determination of the Seller, would unreasonably interfere with the conduct of the business of the Seller and its Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Seller or any of its Affiliates; (v) adopt resolutions (whether by the board of directors of the Seller or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Seller that would provide Buyer the right to terminate this Agreement (unless waived by Buyer); or (v) cooperate to the extent it would require the disclosure of information which the Seller or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Seller or any of the Acquired Companies or violate any Applicable Law to which the Seller or any of the Acquired Companies is a party.

(d) ~~(e)~~ Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, ~~are eligible~~ as of the Closing Date, may have become eligible for retiree medical coverage under any Seller Benefit Plan after the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing. [31]

[31] ~~Note to Purchaser: Note that Seller is not requiring the buyer to provide defined benefit plan, equity-based compensation and/or long-term compensation benefits. Rather, the proposed covenant merely requires the value of any such benefits to be included in the calculation of benefits in the "aggregate" that must be provided.~~

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same

extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates [shall be responsible for][18] and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim

[18] Note to Purchaser: Parties to discuss purchase price adjustment in favor of Sellers to reflect the economic benefit of removing workers compensation liabilities from the balance sheet of Kentucky Power.

for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had ~~first~~ contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had ~~first~~ contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is

one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had ~~first~~ contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to any solicitation (or any hiring as a result of any solicitation) (x) ~~any solicitation~~ that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, ~~or~~ (y) ~~any solicitation (or any hiring as a result of any solicitation)~~ of any person who ~~for a period of at least six (6) months prior to such solicitation (and hiring) has~~is no longer ~~been~~ employed by Sellers, Purchaser or their Affiliates, as applicable, ~~other than as a result of any solicitation otherwise prohibited by this Section 5.17~~or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the ~~AEPSC~~Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of ~~AEPSC~~Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such ~~AEPSC~~Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such ~~AEPSC~~Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of ~~AEPSC~~Support Employees (or the omission of any person from that list). At least [ ] days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such

accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably

available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained[32], and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.[19]

~~(d) CFIUS Clearance. The CFIUS Clearance shall have been obtained and be in full force and effect.~~

(d) ~~(e)~~ Mitchell Plant Approvals. The Mitchell Plant Approvals[33] shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii)

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[32] ~~**Note to Purchaser:** Deleted language covered in the definition of Final Order.~~

[19] Note to Purchaser: CFIUS Clearance is a Required Regulatory Approval so a separate closing condition is no longer needed.

[33] ~~**Note to Purchaser:** Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.~~

each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, ~~CFIUS Clearance,~~ amendment of the NSR Consent Decree contemplated by Section 4.13 ~~or other necessary consent, clearance, non-objection, expiration or termination of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws~~ shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition ~~(or any conditions or circumstances giving rise or that would reasonably be expected to give rise thereto)~~.[20]

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

[20] **Note to Purchaser**: "Burdensome Condition" definition already includes a reasonable expectation concept.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to

any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.[34]

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval)~~,~~ or Section 7.1(b) ~~or Section 7.1(d)~~ have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii)

~~[34] **Note to Purchaser**: This section and the closing conditions revised with the intent that, if the Mitchell Plant Approvals are not obtained, then Purchaser would not owe the Termination Fee. Adverse changes to the Mitchell agreements with respect to Kentucky Power would be factored into the determination of the Burdensome Condition. If the cumulative adverse impact of conditions/settlements relating the Required Regulatory Approvals (which no longer include WVPSC approvals) and changes to the Mitchell agreements required by the Mitchell Plant Approvals result in a Burdensome Condition, then Purchaser would not be obligated to close but would be required to pay the Termination Fee if it elects not to close based upon the Burdensome Condition.~~

the conditions in Section 7.1(a)~~,~~ or 7.1(b) ~~or 7.1(d)~~ failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 ~~or otherwise under this Agreement~~, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2(e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $[~~————~~65,000,000]~~35~~ (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii)

[redacted]

specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be

performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. ~~In the event of termination of this Agreement,~~ Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing or (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA.

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party or (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect

to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement

against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Willful Breach or Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]

Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

~~[Company]~~Liberty Utilities Co.
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this

Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation

may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and

shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

~~**[PURCHASER]**~~

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (~~an~~a "~~AEPSC~~Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19, shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount." Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount".

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or ~~other~~third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty

in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and ~~[Liberty Utilities Co., a Delaware corporation]~~/[~~[~~Purchaser~~]~~.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and ~~American Electric Power Service Corporation, a New York corporation~~AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of

acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount[21]; (f~~) any Liabilities under leases that are (or should be) capitalized in accordance with GAAP or FERC Accounting Requirements, (g~~) any dividends declared but not yet paid; (~~h~~g) ~~any Liabilities in respect of physical asset retirement obligations to the extent such Liabilities would not currently be directly recoverable in rates charged to customers of the Acquired Companies, (i) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing, (j)~~ any unpaid Liabilities with respect to severance compensation; (~~k~~h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); [(~~l~~i) use tax reserves and any additional use tax liability in connection with ~~any~~, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date;][22] (~~m~~k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (~~l~~i); and (~~n~~m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (~~m~~l).

[21] Note to Purchaser: Tax Liability Amount already contains employment taxes deferred under the CARES Act.

[22] **Note to Draft**: Subject to further review by AEP.

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required

Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.[36]

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

[36] **Note to Purchaser**: Mitchell Plant Approvals would be the WVPSC, KPSC and FERC 205 approvals relating to the termination and replacement of the Existing Mitchell Operating Agreement with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by

a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to ~~the Closing Date and, in the case of any Straddle Period, the portion of such period ending on and including the day before~~ the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all

appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

~~[~~"Reference Time" shall mean ~~11:59 p~~12:01 a.m., Eastern time, on the Closing Date~~; provided, that for purposes of any determination as of the Reference Time, such determination shall not include the effect of any payments or deliveries of funds made by or on behalf of the Purchaser or its Affiliates in connection with the Closing pursuant to Section 1.3, Section 4.16(a), Section 4.16(b), Section 4.16(c) or Section 4.16(e), which payments and deliveries of funds shall be deemed to have been made or delivered on the Closing Date after the Reference Time~~.~~]~~[37]

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

[37] ~~**Note to Sellers**: To discuss in the context of closing time, including how this will practically be accounted for.~~

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $~~[~~250,000~~]~~ of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

~~"Straddle Period" shall mean any taxable period that includes, but does not end on, the Closing Date. In the case of any Taxes that are imposed on or with respect to income, gains, receipts, sales or payments and are payable for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed equal to the amount that would be payable if the relevant Tax period ended on and included the Closing Date, and in the case of any other Taxes for a Straddle Period, the portion of such Taxes related to the Pre-Closing Tax Period shall be deemed to be the amount of such Tax for the entire taxable period multiplied by a fraction, the numerator of which is the number of days in the taxable period prior to and including the Closing Date and the denominator of which is the number of days in such Straddle Period.~~

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-five million U.S. dollars (-$35,000,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of the CARES Act) with respect to such periods; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken

into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and [(viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.][23]

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes,

[23] **Note to Draft**: Subject to further review by AEP.

Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
~~AEP LTD Plan~~	~~5.19~~
~~AEPSC Employee~~	~~Definition of Acquired Company Employee~~
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19

Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
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Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)

~~Seller Intellectual Property~~	~~4.10~~
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

[Provided separately]

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

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Deletions	373
Moved from	6
Moved to	6
Style changes	0
Format changes	0

Total changes	725

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at ~~12:01~~10:00 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a

manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial

Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination

of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one ~~or more~~ share ~~certificates~~certificate and, as of the Effective Date[1], none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are

[1] ~~**Note to Purchaser**: Added for flexibility to allow the Kentucky TransCo Shares to become certificated (if it is desirable to do so) without violating a Fundamental Representation. Regardless of the form of the shares at Closing, Sellers are obligated under Section 1.3(b)(i)(A) to deliver the appropriate transfer powers or instruments to Purchaser.~~

no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the

Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or

(iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records and except as made available to Purchaser, the books, records and accounts of the Acquired Companies do not contain any information material to the financial position or reporting of the Acquired Companies that is not reflected in the Financial Statements.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice.[2] Since the Balance Sheet Date, except as otherwise disclosed in the Seller Disclosure Letter (including in response to any other Section of this Agreement), none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, Section 4.1(a) had it occurred after the Effective Date and prior to Closing.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 2.7(b) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

[2] ~~Note to Purchaser: Retroactive scheduling of this type would be a burdensome requirement given the size of the business. Purchaser has been provided with voluminous schedules and other representations and warranties about the current assets, properties, and liabilities of the business.~~

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding[3];

[3] ~~**Note to Purchaser**: It would be burdensome to schedule all filed rate settlements.~~

(x) all material real property leases and all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which ~~an~~any Acquired Company has any ongoing obligations, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which ~~an~~any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers

Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or~~, in the event of related cases arising out of a single event or related cases that arise out of a series of like events,~~ in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company),

both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).[41]

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the

[41] **Note to Purchaser**: AEP continues to offer retiree medical, dental and life insurance benefits for its employees who were hired prior to January 1, 2014. A portion of this liability has been allocated to Kentucky Power Business Units.

Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial

advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business as listed on Section 2.19(v) of the Seller Disclosure Schedule[2]) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party

[2] Note to Sellers: If there was a notice of nonrenewals, we need to know.

list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers,

constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S.

government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (~~3~~4) the satisfaction of the conditions set forth in Article VII and (~~4~~5) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions

contemplated by this Agreement, Purchaser and the Acquired Companies will, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither

Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action prior to taking any such action as soon as may be reasonably practicable or, if such prior notice is not reasonably practicable, as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of

business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)~~,~~ and (G) the Mitchell Plant Ownership Agreement ~~(and the Mitchell Interest Purchase Agreement contemplated thereby)~~ and the Mitchell Plant O&M Agreement~~, and (H) any Contract entered into, assigned or amended in support of~~ in accordance with the ~~implementation~~terms of ~~the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter~~[5]this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire ~~or~~, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher~~,~~ or ~~transfer~~ any Acquired Company Employee who performs material services for the Business ~~into or out of the Business~~ (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];[63]

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in

[5] ~~**Note to AEP**: Discuss, as this exception seems potentially very broad.~~

[63] **Note to Purchaser:** See CBA consent right added to Section 4.1(d).

employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless ~~(A)~~ such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage ~~or (B) such coverage is no longer available on commercially reasonable terms consistent with Good Utility Practice~~; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed in advance of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that any ~~material~~ amendment ~~or~~, modification ~~or~~, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Acquired Companies) contains terms and conditions that differ in any material ~~and~~or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such ~~material~~ amendment ~~or~~, modification ~~or~~, extension or replacement shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any

Acquired Company) shall effect or consent to any ~~non-ministerial~~ waiver, amendment or modification[7] thereunder or take any action thereunder that would affect the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers Disclosure Letter with respect to certain borderline sales provided to or from Kentucky Power.[4]

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract[8] or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement[9], each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in

[7] ~~**Note to Purchaser**: The Mitchell owners will need to continue operating Mitchell in the ordinary course of business which may involve taking actions or making decisions, both before and after the new Mitchell agreements are executed.~~

[4] Note to Sellers: Schedule to describe FERC filing(s) and agreement to bring borderline sales into better alignment with AQN's compliance regime.

[8] ~~**Note to Purchaser**: AEP cannot agree to violate contracts (whether or not a Material Contract) but the proviso obligates AEP to work toward alternate arrangements.~~

[9] ~~**Note to Purchaser**: Some data and information will be transitioned over the TSA term.~~

the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process

or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby

(including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any

Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals[10], in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order

~~[10] **Note to Purchaser**: Mitchell Plant Approvals added to HOHW covenant to align with the proviso in the last sentence of Section 4.5(d).~~

in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).[5]

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use

[5] Note to Sellers: Subject to resolution of the non-recourse issue in the definition of Mitchell Interest Purchase Agreement in the Mitchell Ownership Agreement.

reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any

national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter,[~~11~~6] (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.[~~12~~7]

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in

[~~11~~6] **Note to Sellers**: Which Intercompany Arrangements require such authorization, and are there any anticipated issues / hurdles to obtaining such authorizations? **Note to Purchaser**: Section 2.4(a) of the Sellers Disclosure Letter lists the anticipated approvals.

[~~12~~7] **Note to Sellers**: Subject to review, including the specific agreement that outlines the commitment to jointly participate with AEP. **Note to Purchaser**: Schedule to be included in Disclosure Letter to further describe the anticipated arrangement.

accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an

Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none

of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their

Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is

not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that Kentucky Power is a party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to Kentucky Power by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause Kentucky Power to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by Kentucky Power pursuant to the Utility Money Pool Agreement as a result of the removal of Kentucky Power from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the

Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account ~~Purchaser~~the Parties'~~s~~ use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use commercially reasonable efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such commercially reasonable efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use commercially reasonably efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Schedule 4.20(a) (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies

and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses incurred prior to Closing consistent with ~~the immediately preceding sentence~~Section 4.22. For purposes of this Agreement, that certain Claim Handling and

Funding Agreement, dated May 30, 1996, between AEPSC and [Nationwide][~~13~~8] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and

[~~13~~8] **Note to Draft**: Subject to confirmation.

their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records; ~~and~~[14]

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) ~~(iii)~~ [15][16]providing reasonable assistance to the Purchaser to produce financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting the Purchaser in the preparation of such financial statements; provided, that neither the Seller nor its Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely

~~[14] **Note to Draft**: Clause (iii) deleted because lenders' due diligence will not be a condition to the financing per the commitment papers.~~

~~[15] **Note to Draft**: Clause (iv) deleted because KYC and related information to come from the Purchaser and its affiliates and not involve the Seller and its affiliates.~~

~~[16] **Note to Draft**: Clause (v) deleted because already covered by clauses (i) and (ii).~~

with respect to information and data derived from the Seller's historical books and records and (y) neither Seller nor its Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.[9]

~~[17]~~provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use commercially reasonable best efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of the Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) The Sellers agree to provide, and will use their commercially reasonable efforts to cause their Affiliates and Representatives to provide, reasonable assistance to the Purchaser for a period of three months following Closing to produce the financial statements (including pro forma financial statements of the Purchaser or its Affiliates and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting the Purchaser in the preparation of financial statements.

(c) The Sellers agree that none of the information supplied or to be supplied by or that is requested to be reviewed by the Sellers or the Acquired Companies for inclusion or incorporation in any public disclosure of the Purchaser or its Affiliates, at the date it is provided, contains any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

(d) ~~(b)~~ Purchaser shall indemnify and hold harmless the Seller and its Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(b) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Seller and its Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(b).

(e) ~~(c)~~ Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the

[9] Note to Sellers: We may need this support as we line up our permanent financing in the interim period.

~~[17] **Note to Draft**: Clause (vii) deleted because lenders' due diligence will not be a condition to the financing per the commitment papers.~~

good faith determination of the Seller, would unreasonably interfere with the conduct of the business of the Seller and its Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Seller or any of its Affiliates; (v) adopt resolutions (whether by the board of directors of the Seller or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Seller that would provide Buyer the right to terminate this Agreement (unless waived by Buyer); or (v) cooperate to the extent it would require the disclosure of information which the Seller or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Seller or any of the Acquired Companies or violate any Applicable Law to which the Seller or any of the Acquired Companies is a party.

(f) ~~(d)~~ Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, as of the Closing Date, ~~may~~would have become eligible for retiree medical coverage under any Seller Benefit Plan ~~after~~within one (1) year following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from

his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be

responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates [shall be responsible for][~~18~~10] and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind

[~~18~~10] Note to Purchaser: Parties to discuss purchase price adjustment in favor of Sellers to reflect the economic benefit of removing workers compensation liabilities from the balance sheet of Kentucky Power. Note to Seller: Please describe what is contemplated (including whether this is a working capital issue).

whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to ~~any solicitation (or any hiring as a result of any solicitation)~~ (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who ~~is~~for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, ~~or (z) made by employees of Sellers or their Affiliates other than hiring managers or their authorized designees~~other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral

Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least [___] days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired

Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.[19]

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13 or other necessary consent, clearance, non-objection, expiration or termination of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions,

[19] ~~Note to Purchaser: CFIUS Clearance is a Required Regulatory Approval so a separate closing condition is no longer needed.~~

liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.[20]

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate

[20] ~~**Note to Purchaser**: "Burdensome Condition" definition already includes a reasonable expectation concept.~~

this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2(e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $~~[~~65,000,000~~]~~ (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the

transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing ~~or~~, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA or (iv) for the matters set forth on Section 9.2(a) of the Sellers Disclosure Letter[11].

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from

[redacted]

and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party ~~or~~, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing and (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified Party, on the other hand, that is in effect at any time following the Closing).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any

Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to ~~Willful Breach or~~ Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation,

covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
[Address]
Attention:
Email:
AEP Transmission Company, LLC
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its

rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an

original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A

reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. ~~For the avoidance of doubt, any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19, shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."~~ Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party

indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response,

remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection,

economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount[21]; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); ~~[~~(i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date;~~]~~[22] (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data;

~~[21] Note to Purchaser: Tax Liability Amount already contains employment taxes deferred under the CARES Act.~~

~~[22] **Note to Draft:** Subject to further review by AEP.~~

(f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics

for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income

Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened

prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date. provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the

actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-five million U.S. dollars (-$35,000,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any ~~unpaid liability for any "applicable employment taxes" (as defined in Section 2302(d)(1) of~~payroll, social security, employment or similar Taxes deferred under the CARES Act~~)~~ or similar Law by the Acquired Companies with respect to ~~such periods~~any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and [(viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid

amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.][2312]

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

[2312] **Note to Draft**: Subject to further review by AEP.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)

Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
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Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

[Provided separately]

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

[Provided separately]

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Style changes	0
Format changes	0

Total changes	218

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at ~~10:00~~12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a

manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial

Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination

of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one share certificate and, as of the Effective Date, none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are

authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or

acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material

transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records ~~and except as made available to Purchaser, the books, records and accounts of the Acquired Companies do not contain any information material to the financial position or reporting of the Acquired Companies that is not reflected in the Financial Statements~~.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. Since the Balance Sheet Date through the Effective Date, except as otherwise disclosed in the Seller Disclosure Letter (including in response to any other Section of this Agreement), none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, ~~Section~~[Sections 4.1(a)[ ]] had it occurred after the Effective Date and prior to Closing. [1]

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section ~~2.7(b~~4.8(a)(ii) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

[1] **Note to Purchaser**: Purchaser to propose the specific actions of highest concern for Sellers to consider.

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding;

(x) ~~all material real property leases and~~ all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations, other than

Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the

Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any

Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active

participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).[1]

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i)

[1] **Note to Purchaser**: AEP continues to offer retiree medical, dental and life insurance benefits for its employees who were hired prior to January 1, 2014. A portion of this liability has been allocated to Kentucky Power Business Units.

there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee,

independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance,

non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies (other than title insurance policies) covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser or will be made available to Purchaser upon request as reasonably necessary in connection with any

claims made under such policies relating to the Acquired Companies prior to the Closing Date. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business ~~as listed on Section 2.19(v) of the Seller Disclosure Schedule~~[2]that would not reasonably be expected to result in a gap in coverage for the Acquired Companies or their assets or operations) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities,

[2] ~~Note to Sellers: If there was a notice of nonrenewals, we need to know.~~

financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be

a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or

commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for an unconditional guaranty of all obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) ~~any estimates, projections or forecasts of the Acquired Companies provided to Purchaser prior to the date hereof have been prepared in good faith based on assumptions that were and continue to be reasonable at and immediately after the Closing, (3)~~ the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (~~4~~3) the satisfaction of the conditions set forth in Article VII and (~~5~~4) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies will, immediately following the Closing, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered

under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action prior to taking any such action ~~as soon as~~ may be reasonably practicable or, if such prior notice is not reasonably practicable, as soon as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on

the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)) and (G) the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement in accordance with the terms of this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher or any Acquired Company Employee who performs material services for the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];[3]

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired

[3] ~~**Note to Purchaser:** See CBA consent right added to Section 4.1(d).~~

Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed ~~in advance~~ of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that (i) any amendment, modification, extension or replacement of any Collective Bargaining Agreements that apply to employees of Sellers or their Affiliates (including the Covered Employees) contains terms and conditions that are reasonably likely to have a material disproportionate and adverse effect on the Acquired Companies with respect to the Covered Employees as compared to similarly situated employees of other Affiliates of the Sellers, or (ii) any material amendment, modification, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the ~~Acquired Companies~~Covered Employees) contains terms and conditions that differ in any material or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such material amendment, modification, extension or replacement shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any Acquired Company) shall effect or consent to any waiver, amendment or modification thereunder or take any action thereunder that would require the consent of Kentucky Power or the Operating Committee (as defined in the Mitchell Plant Ownership Agreement) and that, in each case, would adversely affect in any material respect the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers

Disclosure Letter with respect to ~~certain borderline sales~~wholesale delivery service to be provided ~~to or from~~after the Closing between Kentucky Power and Appalachian Power Company.[4]

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

[4] ~~Note to Sellers: Schedule to describe FERC filing(s) and agreement to bring borderline sales into better alignment with AQN's compliance regime.~~

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller

without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted

with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).[5]

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents.

[5] ~~Note to Sellers: Subject to resolution of the non-recourse issue in the definition of Mitchell Interest Purchase Agreement in the Mitchell Ownership Agreement.~~

Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter,[6] (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts

[6] ~~**Note to Sellers**: Which Intercompany Arrangements require such authorization, and are there any anticipated issues / hurdles to obtaining such authorizations? **Note to Purchaser**: Section 2.4(a) of the Sellers Disclosure~~

identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.[7]

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the

~~issues / hurdles to obtaining such authorizations? **Note to Purchaser**: Section 2.4(a) of the Sellers Disclosure Letter lists the anticipated approvals.~~

~~[7] **Note to Sellers**: Subject to review, including the specific agreement that outlines the commitment to jointly participate with AEP. **Note to Purchaser**: Schedule to be included in Disclosure Letter to further describe the anticipated arrangement.~~

business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain

outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by

operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities)

(collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big

Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that ~~Kentucky Power~~each of the Acquired Companies is ~~a~~ party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to ~~Kentucky Power~~the Acquired Companies by Sellers or their Affiliates. At the Closing, Purchaser shall provide the

funds necessary to cause ~~Kentucky Power~~the Acquired Companies to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by ~~Kentucky Power~~the Acquired Companies pursuant to the Utility Money Pool Agreement as a result of the removal of ~~Kentucky Power~~the Acquired Companies from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price").

Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account the Parties' use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify

Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use ~~commercially~~ reasonable best efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such ~~commercially~~ reasonable best efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use ~~commercially reasonably~~reasonable best efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in ~~Schedule~~Section 4.20(a) of the Sellers Disclosure Letter (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided

interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Concurrently with, and conditioned upon, the closing of any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, Sellers shall cause AEP Generation Resources Inc. to enter into an indemnity agreement for the benefit of Kentucky Power containing the terms described on Section 4.20(e) of the Sellers Disclosure Letter.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in

Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies with respect to the period prior to Closing from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses incurred prior to Closing consistent with Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between AEPSC and ~~[~~Nationwide~~]~~[8] (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause

~~[8] **Note to Draft**: Subject to confirmation.~~

the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of

rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records;

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) providing reasonable assistance to ~~the~~ Purchaser to produce financial statements (including pro forma ~~financial statements of the Purchaser or its Affiliates~~ and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting ~~the~~ Purchaser in the preparation of such financial statements; provided, that neither the ~~Seller~~Sellers nor ~~its~~their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither ~~Seller~~Sellers nor ~~its~~their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.[9]

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use commercially reasonable ~~best~~ efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of ~~the~~ Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

[9] ~~Note to Sellers: We may need this support as we line up our permanent financing in the interim period.~~

(b) ~~The~~ Sellers agree to ~~provide,~~ use commercially reasonable efforts to (and will use ~~their~~ commercially reasonable efforts to cause their Affiliates and Representatives to) provide, reasonable assistance to ~~the~~ Purchaser for a period of three months following Closing to produce the financial statements (including pro forma ~~financial statements of the Purchaser or its Affiliates~~ and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting ~~the~~ Purchaser in the preparation of financial statements~~.~~

~~(c) The~~; provided, that neither the Sellers ~~agree that none of the~~nor their Representatives shall be required to provide any such assistance with respect to financial information ~~supplied~~ or ~~to be supplied by or that is requested to be reviewed by~~statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the ~~Sellers or~~acquisition of the Acquired Companies~~ for inclusion or incorporation in any public disclosure of the Purchaser or its Affiliates, at the date it is provided, contains any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading~~; provided further that (x) such assistance shall be limited solely with respect to information and data derived from each Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

(c) ~~(d)~~ Purchaser shall indemnify and hold harmless ~~the Seller~~Sellers and ~~its~~their Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(~~b~~c) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the ~~Seller~~Sellers and ~~its~~their Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(~~b~~c).

(d) ~~(c)~~ Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require any Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the good faith determination of the ~~Seller~~Sellers, would unreasonably interfere with the conduct of the business of the ~~Seller~~Sellers and ~~its~~their Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the ~~Seller~~Sellers or any of ~~its~~their Affiliates; (v) adopt resolutions (whether by the board of directors of the ~~Seller~~Sellers or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by any Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by ~~Seller~~Sellers that would provide ~~Buyer~~Purchaser the right to terminate this Agreement (unless waived by ~~Buyer~~Purchaser); or (v) cooperate to the extent it would require the disclosure of information which the ~~Seller~~Sellers or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the ~~Seller~~Sellers or any of the

Acquired Companies or violate any Applicable Law to which the ~~Seller~~Sellers or any of the Acquired Companies is a party.

(e) ~~(f)~~ Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to the Closing, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal~~, in the aggregate,~~ to the ~~base~~

~~salary/wage rate and such~~ annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, as of the Closing Date, would have become eligible for retiree medical coverage under any Seller Benefit Plan within ~~one~~two (~~1~~2) ~~year~~years following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or

similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the

applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates [shall be responsible for][10] and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation

[10] Note to Purchaser: Parties to discuss purchase price adjustment in favor of Sellers to reflect the economic benefit of removing workers compensation liabilities from the balance sheet of Kentucky Power. Note to Seller: Please describe what is contemplated (including whether this is a working capital issue).

plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make an offer of employment to each of the Covered Support Employees, which offer shall be based on the terms of the applicable Collective Bargaining Agreement and conditioned upon the occurrence of the Closing and effective as of the Closing Date. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Non-Covered Support Employees, which Qualifying Offer shall be conditioned upon the

occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least [ ]21 days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause

to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the

Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13~~ or other necessary consent, clearance, non-objection, expiration or termination of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws~~ shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to

any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2(e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $65,000,000 (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be

paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting

the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, other than Liabilities to the extent relating to or arising in connection with any Contract between Sellers or any of their current, former or future Affiliates, on the one hand, and any Purchaser Indemnified Party, on the other hand, that is in effect at any time following the Closing, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA or (iv) for the matters set forth on Section 9.2(a) of the Sellers Disclosure Letter~~11~~.

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing and (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified Party, on the other hand, that is in effect at any time following the Closing).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a

[redacted]

covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling

person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
~~[Address]~~1 Riverside Plaza
Columbus, OH 43215
Attention: Charles E. Zebula
Email: cezebula@aep.com
AEP Transmission Company, LLC
~~[Address]~~1 Riverside Plaza
Columbus, OH 43215
Attention: Stephan T. Haynes
Email: sthaynes@aep.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise

contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York,

within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client

confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

~~"Buyout Transaction" shall mean an acquisition by Wheeling of the Mitchell Interest as contemplated by the Mitchell Plant Ownership Agreement.~~

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of

any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of

acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date; (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or

manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

~~"Mitchell Interest Purchase Agreement" shall mean the asset purchase agreement contemplated by the Mitchell Plant Ownership Agreement pursuant to which Kentucky Power and Wheeling will consummate the Buyout Transaction.~~

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital. "Net Working Capital" shall be increased by the amount of accruals for workers compensation benefits reflected on the most recent balance sheet of Kentucky Power (whether or not reflected as current assets or current liabilities), the liabilities for which Sellers and their Affiliates shall be responsible for in accordance with Section 5.13 .

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record

affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date~~.~~; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the

board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-five million U.S. dollars (-$35,000,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and ~~[~~(viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid

amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.][12]

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

[12] **Note to Draft:** Subject to further review by AEP.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)

Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

~~[Provided separately]~~

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

~~[Provided separately]~~

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Moved to	1
Style changes	0
Format changes	0

Total changes	211

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of [_____], 2021

This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.

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Appendices

Exhibits

~~Disclosure Letters~~
~~Sellers Disclosure Letter~~
~~Purchaser Disclosure Letter~~

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a

manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial

Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination

of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one share certificate and, as of the Effective Date, none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are

authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or

acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material

transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice. ~~Since the Balance Sheet Date through the Effective Date, except as otherwise disclosed in the Seller Disclosure Letter (including in response to any other Section of this Agreement), none of the Sellers or the Acquired Companies has taken any action that would have violated, or required Purchaser's consent pursuant to, [Sections 4.1(a)[__]] had it occurred after the Effective Date and prior to Closing.~~[1]

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other

[1] ~~**Note to Purchaser**: Purchaser to propose the specific actions of highest concern for Sellers to consider.~~

Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding;

(x) all material real property leases and all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations, other than

Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the

Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable, sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any

Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active

participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or

other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax

assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies (other than title insurance policies) covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser or will be made available to Purchaser upon request ~~as reasonably necessary in connection with any claims made under such policies relating to the Acquired Companies~~ prior to the Closing Date. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the

Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business that would not reasonably be expected to result in ~~a~~any gap in coverage for the Acquired Companies or their assets or operations) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets,

liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the

execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this

Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for ~~an unconditional~~a guaranty of ~~all~~certain obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (3) the satisfaction of the conditions set forth in Article VII and (4) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies will, immediately following the Closing, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for

evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details

thereof) and action prior to taking any such action as may be reasonably practicable or, if such prior notice is not reasonably practicable, as soon as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than, except with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into,

assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)) and (G) the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement in accordance with the terms of this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher or any Acquired Company Employee who performs material services for the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the

capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that (i) any amendment, modification, extension or replacement of any Collective Bargaining Agreements that apply to employees of Sellers or their Affiliates (including the Covered Employees) contains terms and conditions that are reasonably likely to have a material disproportionate and adverse effect on the Acquired Companies with respect to the Covered Employees as compared to similarly situated employees of other Affiliates of the Sellers, or (ii) any material amendment, modification, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Covered Employees) contains terms and conditions that differ in any material or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such ~~material~~ amendment, modification, extension or replacement described in the foregoing clauses (i) or (ii) shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any Acquired Company) shall effect or consent to any waiver, amendment or modification thereunder or take any action thereunder that would require the consent of Kentucky Power or the Operating Committee (as defined in the Mitchell Plant Ownership Agreement) and that, in each case, would ~~adversely~~ affect ~~in any material respect~~ the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed. Without the prior written consent of Purchaser (not to be unreasonably withheld, conditioned or delayed), none of Sellers or any of their respective Affiliates (including any Acquired Company) shall adopt or agree to (including in connection with the execution or effectiveness of the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement) either (i) the Capital Budget, the initial annual operating budget or the initial forecast contemplated by the Mitchell Plant Ownership Agreement or (ii) the Budget and Plan contemplated by the Mitchell Plant O&M Agreement.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers Disclosure Letter ~~with respect to wholesale delivery service to be provided after the Closing between Kentucky Power and Appalachian Power Company~~.[1]

[1] NTD: Schedule to be updated to include the transfer to AEP of all right title and interest, including all Liabilities, of Kentucky Power with respect to the Posey Coal Fields referenced in Schedule 2.7(c).

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall

limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this

Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or

with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or

termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate (i) reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole ~~(~~or (ii) increase the Liability of KPCo in connection with any potential "Buyout Transaction" (as defined in the Mitchell Ownership Agreement in the form attached to this Agreement) (A) under the Mitchell Ownership Agreement relative to that provided in the form attached to this Agreement or (B) in respect of Conner Run (as defined in

Section 4.20(e) of the Seller Disclosure Letter) relative to that contemplated by Section 4.21(a) of the Seller Disclosure Schedule (clause (ii), a "Mitchell Burdensome Condition", and any of (i) or (ii), a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this

Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter, (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers

actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired

Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company

to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of

Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12

applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be

consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that each of the Acquired Companies is party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to the Acquired Companies by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause the Acquired Companies to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by the Acquired Companies pursuant to the Utility Money Pool Agreement as a result of the removal of the Acquired Companies from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and

contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account the Parties' use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use reasonable best efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such reasonable best efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use reasonable best efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the

foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Section 4.20(a) of the Sellers Disclosure Letter (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Concurrently with, and conditioned upon, the closing of any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, Sellers shall cause AEP Generation Resources Inc. to enter into an indemnity agreement for the benefit of Kentucky Power ~~containing~~on the terms described on Section 4.20(e) of the Sellers Disclosure Letter.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide

reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies with respect to the period prior to Closing from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses incurred prior to Closing consistent with Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between AEPSC and Nationwide (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party

consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records;

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) providing reasonable assistance to Purchaser to produce financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting Purchaser in the preparation of such financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or

the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use ~~commercially~~ reasonable best efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) Sellers agree to use ~~commercially~~ reasonable best efforts to (and will use commercially reasonable efforts to cause their Affiliates and Representatives to) provide, reasonable assistance to Purchaser for a period of three months following Closing to produce the financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting Purchaser in the preparation of financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from each Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

(c) Purchaser shall indemnify and hold harmless Sellers and their Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(c) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Sellers and their Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(c).

(d) Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require any Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the

good faith determination of the Sellers, would unreasonably interfere with the conduct of the business of the Sellers and their Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Sellers or any of their Affiliates; (v) adopt resolutions (whether by the board of directors of the Sellers or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by any Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Sellers that would provide Purchaser the right to terminate this Agreement (unless waived by Purchaser); or (v) cooperate to the extent it would require the disclosure of information which the Sellers or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Sellers or any of the Acquired Companies or violate any Applicable Law to which the Sellers or any of the Acquired Companies is a party.

(e) Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to the Closing, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, as of the Closing Date, would have become eligible for retiree medical coverage under any Seller Benefit Plan within two (2) years following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in

lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any

Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make an offer of employment to each of the Covered Support Employees, which offer shall be based on the terms of the applicable Collective Bargaining Agreement and conditioned upon the occurrence of the Closing and effective as of the Closing Date. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Non-Covered Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least 21 days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or

non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13 shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the

failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or

failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2(e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this

Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $65,000,000 (the "Termination Fee"); provided that notwithstanding anything to the contrary, in no event shall any Termination Fee hereunder be payable if at the time of termination of this Agreement the condition set forth in Section 7.2(f) is not or could not be satisfied as a result of a Mitchell Burdensome Condition or any of the conditions in Section 7.1 failed to be satisfied as a result of a failure to agree to a Mitchell Burdensome Condition. If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) subject to Section 9.2(b)(v), representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any

covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, other than Liabilities to the extent relating to or arising in connection with any Contract between Sellers or any of their current, former or future Affiliates, on the one hand, and any Purchaser Indemnified Party, on the other hand, that is in effect at any time following the Closing, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA ~~or~~, (iv) for any failure of the representations and warranties in Section 2.8 to true and correct in all respects as of the date of this Agreement and as of Closing solely to the extent with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), which shall be deemed to be a Material Contract hereunder (and such representations and warranties (solely to the extent with respect to such Joint Use Operating Agreement) shall be deemed to survive the Closing indefinitely) or any failure to comply with Section 4.1(a)(iii) (disregarding the word "materially" therein for these purposes) solely to the extent with respect to such Joint Use Agreement or (v) for any of the matters set forth ~~on~~ Section 9.2(a) of the Sellers Disclosure Letter.[2]

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing ~~and~~, (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified

[2] NTD: To include all Liabilities with respect to the Posey Coal Fields referenced in Schedule 2.7(c), expressly including (without limitation) any Liability in respect of Taxes related thereto (referenced in Schedule 2.15) and any Environmental Claims.

Party, on the other hand, that is in effect at any time following the Closing or (iv) any Person, assets or Liabilities other than an Acquired Company or as otherwise expressly transferred to Purchaser pursuant to this Agreement).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will

consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
1 Riverside Plaza
Columbus, OH 43215
Attention: Charles E. Zebula
Email: cezebula@aep.com
AEP Transmission Company, LLC
1 Riverside Plaza
Columbus, OH 43215
Attention: Stephan T. Haynes
Email: sthaynes@aep.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
[Address]
Attention:
Email:

with a copy (which shall not constitute notice) to:

[Company]
[Address]
Attention:
Email:

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval

or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format"

(.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other

representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED

COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references

to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $[_____].

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and

will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil

Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or

non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date; (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for

electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital. ~~"Net Working Capital" shall be increased by the amount of accruals for workers compensation benefits reflected on the most recent balance sheet of Kentucky Power (whether or not reflected as current assets or current liabilities), the liabilities for which Sellers and their Affiliates shall be responsible for in accordance with Section 5.13 .~~

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative [thirty-five million U.S. dollars (-$35,000,000)][3].

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and (viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

[3] Target Net Working Capital to be decreased by the amount of accruals for workers compensation benefits reflected on the June 30th balance sheet of Kentucky Power.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4

AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
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Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
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Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
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Morgan Lewis	1.3(a)
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Non-Recourse Party	9.2
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Party	Preamble

Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
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Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
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Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

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Format changes	0

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STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of [_____], 2021

~~*This draft Stock Purchase Agreement is intended to facilitate discussions among the parties identified herein. It is not intended to create, and will not be deemed to create, a legally binding or enforceable offer or agreement of any type or nature prior to the duly authorized and approved execution of this document by all such parties and the delivery of an executed copy hereof by all such parties to all other parties.*~~

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Appendices

Exhibits

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [_____], 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a

manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial

Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination

of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one share certificate and, as of the Effective Date, none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are

authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or

acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material

transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding;

(x) ~~all material real property leases and~~ all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable,

sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property. True and correct copies of each material real property lease have been made available to Purchaser prior to the date hereof.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights

to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group

layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among

the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies (other than title insurance policies) covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser or will be made available to Purchaser upon request prior to the Closing Date. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business that would not reasonably be expected to result in any gap in coverage for the Acquired Companies or their assets or

operations) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of

time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds

or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for a guaranty of certain obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (3) the satisfaction of the conditions set forth in Article VII and (4) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies will, immediately following the Closing, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that

it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action prior to taking any such action as may be reasonably practicable or, if such prior notice is not reasonably practicable, as soon as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such

prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than, except with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)) and (G) the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement in accordance with the terms of this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher or any Acquired Company Employee who performs material services for the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made

under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller

has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that (i) any amendment, modification, extension or replacement of any Collective Bargaining Agreements that apply to employees of Sellers or their Affiliates (including the Covered Employees) contains terms and conditions that are reasonably likely to have a material disproportionate and adverse effect on the Acquired Companies with respect to the Covered Employees as compared to similarly situated employees of other Affiliates of the Sellers, or (ii) any material amendment, modification, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Covered Employees) contains terms and conditions that differ in any material or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such amendment, modification, extension or replacement described in the foregoing clauses (i) or (ii) shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any Acquired Company) shall (i) effect or consent to any waiver, amendment or modification thereunder or take any action thereunder that would require the consent of Kentucky Power or the Operating Committee (as defined in the Mitchell Plant Ownership Agreement) and that, in each case, would affect in any material respect the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing~~, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed. Without the prior written consent of Purchaser (not to be unreasonably withheld, conditioned or delayed), none of Sellers or any of their respective Affiliates (including any Acquired Company) shall adopt~~ or (ii) agree to ~~(including in connection with the execution or effectiveness of the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement)~~amend either (~~i~~A) the Capital Budget, the initial annual operating budget or the initial forecast contemplated by the Mitchell Plant Ownership Agreement or (~~ii~~B) the Budget and Plan contemplated by the Mitchell Plant O&M Agreement, in each case, without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers Disclosure Letter.[1]

4.2 Access to Information.

[1] ~~NTD: Schedule to be updated to include the transfer to AEP of all right title and interest, including all Liabilities, of Kentucky Power with respect to the Posey Coal Fields referenced in Schedule 2.7(e).~~

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of

any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and

Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to): (i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or

cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate ~~(i)~~ reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole ~~or (ii) increase the Liability of KPCo in connection with any potential "Buyout Transaction" (as defined in the Mitchell Ownership Agreement in the form attached to this Agreement) (A) under the Mitchell Ownership Agreement relative to that provided in the form attached to this Agreement or (B) in respect of Conner Run (as defined in Section 4.20(e) of the Seller Disclosure Letter) relative to that contemplated by Section 4.21(a) of the Seller Disclosure Schedule (clause (ii), a "Mitchell Burdensome Condition", and any of (i) or (ii),~~ (a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither

Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in,

any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter, (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers

actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired

Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company

to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of

Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12

applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be

consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that each of the Acquired Companies is party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to the Acquired Companies by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause the Acquired Companies to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by the Acquired Companies pursuant to the Utility Money Pool Agreement as a result of the removal of the Acquired Companies from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and

contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account the Parties' use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use reasonable best efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such reasonable best efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use reasonable best efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the

foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Section 4.20(a) of the Sellers Disclosure Letter (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Concurrently with, and conditioned upon, the closing of any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, Sellers shall cause AEP Generation Resources Inc. to enter into an indemnity agreement for the benefit of Kentucky Power on the terms described on Section 4.20(e) of the Sellers Disclosure Letter.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide

reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies with respect to the period prior to Closing from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses incurred prior to Closing consistent with Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between AEPSC and Nationwide (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party

consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records;

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) providing reasonable assistance to Purchaser to produce financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting Purchaser in the preparation of such financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or

the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use reasonable best efforts to (and will use ~~commercially~~ reasonable best efforts to cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) Sellers agree to use reasonable best efforts to (and will use ~~commercially~~ reasonable best efforts to cause their Affiliates and Representatives to) provide, reasonable assistance to Purchaser for a period of three months following Closing to produce the financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting Purchaser in the preparation of financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from each Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

(c) Purchaser shall indemnify and hold harmless Sellers and their Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(c) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Sellers and their Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(c).

(d) Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require any Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the

good faith determination of the Sellers, would unreasonably interfere with the conduct of the business of the Sellers and their Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Sellers or any of their Affiliates; (v) adopt resolutions (whether by the board of directors of the Sellers or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by any Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Sellers that would provide Purchaser the right to terminate this Agreement (unless waived by Purchaser); or (v) cooperate to the extent it would require the disclosure of information which the Sellers or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Sellers or any of the Acquired Companies or violate any Applicable Law to which the Sellers or any of the Acquired Companies is a party.

(e) Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to the Closing, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, as of the Closing Date, would have become eligible for retiree medical coverage under any Seller Benefit Plan within two (2) years following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in

lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any

Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make an offer of employment to each of the Covered Support Employees, which offer shall be based on the terms of the applicable Collective Bargaining Agreement and conditioned upon the occurrence of the Closing and effective as of the Closing Date. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Non-Covered Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least 21 days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or

non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13 shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the

failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or

failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2(e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this

Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $65,000,000 (the "Termination Fee"); provided that notwithstanding anything to the contrary, in no event shall any Termination Fee hereunder be payable if at the time of termination of this Agreement the condition set forth in Section 7.2(f) is not or could not be satisfied as a result of a Mitchell Burdensome Condition or any of the conditions in Section 7.1 failed to be satisfied as a result of a failure to agree to a Mitchell Burdensome Condition. If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section 2.20, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) subject to Section 9.2(~~b~~a)(~~v~~iv), representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any

covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, other than Liabilities to the extent relating to or arising in connection with any Contract between Sellers or any of their current, former or future Affiliates, on the one hand, and any Purchaser Indemnified Party, on the other hand, that is in effect at any time following the Closing, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA, (iv) for any failure of the representations and warranties in Section 2.8 to be true and correct in all respects as of the date of this Agreement and as of Closing solely to the extent with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), which shall be deemed to be a Material Contract hereunder (and such representations and warranties (solely to the extent with respect to such Joint Use Operating Agreement) shall be deemed to survive the Closing indefinitely) or any failure to comply with Section 4.1(a)(iii) (disregarding the word "materially" therein for these purposes) solely to the extent with respect to such Joint Use Agreement or (v) for any of the matters set forth on Section 9.2(a) of the Sellers Disclosure Letter.[2]

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing, (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified Party, on the

[2] ~~NTD: To include all Liabilities with respect to the Posey Coal Fields referenced in Schedule 2.7(c), expressly including (without limitation) any Liability in respect of Taxes related thereto (referenced in Schedule 2.15) and any Environmental Claims.~~

other hand, that is in effect at any time following the Closing or (iv) any Person, assets or Liabilities other than an Acquired Company or as otherwise expressly transferred to Purchaser pursuant to this Agreement).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will

consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
1 Riverside Plaza
Columbus, OH 43215
Attention: Charles E. Zebula
Email: cezebula@aep.com
AEP Transmission Company, LLC
1 Riverside Plaza
Columbus, OH 43215
Attention: Stephan T. Haynes
Email: sthaynes@aep.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
~~[Address]~~c/o Algonquin Power & Utilities Corp.
354 Davis Road, Suite 100
Oakville, Ontario, Canada L6J 2X1
Attention: Chief Legal Officer
Email: Jennifer.Tindale@APUCorp.com
notices@APUCorp.com
with a copy (which shall not constitute notice) to:

~~[Company]~~
~~[Address]~~
Simpson Thacher & Bartlett LLP 425 Lexington Avenue
New York, NY 10017
Attention: Eli Hunt
Email: Eli.Hunt@stblaw.com

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by

Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York, within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action

for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the

privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded

determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $~~[_____]~~2,846,000,000.

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and

will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil

Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time taking the total consolidated amounts forecast for each month during such period set forth on Appendix III (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or

non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date; (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for

electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person

and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative ~~[~~thirty-~~five~~eight million one hundred five thousand U.S. dollars (-$~~35,000,000~~38,105,000)~~]~~[3].

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration,

~~[3] Target Net Working Capital to be decreased by the amount of accruals for workers compensation benefits reflected on the June 30th balance sheet of Kentucky Power.~~

social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and (viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby

or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)

Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)
Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
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Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)]
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
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Party	Preamble
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Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)]
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)

Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)
R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

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Format changes	0

Total changes	233

STOCK PURCHASE AGREEMENT

by and among

AMERICAN ELECTRIC POWER COMPANY, INC.

AEP TRANSMISSION COMPANY, LLC

and

LIBERTY UTILITIES CO.

Dated as of ~~[_____]~~October 26, 2021

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Exhibits

STOCK PURCHASE AGREEMENT

This STOCK PURCHASE AGREEMENT (this "Agreement"), dated as of [~~]~~October 26, 2021 (the "Effective Date"), is by and among American Electric Power Company, Inc. ("AEP"), a New York corporation, AEP Transmission Company, LLC ("AEP TransCo"), a Delaware limited liability company (AEP and AEP TransCo are each referred to individually as a "Seller," and, collectively, as "Sellers"), and Liberty Utilities Co., a Delaware corporation ("Purchaser"). Sellers and Purchaser are each referred to individually in this Agreement as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, AEP owns, of record and beneficially, all of the outstanding common shares, $50.00 par value (the "Kentucky Power Shares"), of Kentucky Power Company, a Kentucky corporation ("Kentucky Power");

WHEREAS, AEP TransCo owns, of record and beneficially, all of the outstanding common shares, no par value (the "Kentucky TransCo Shares," and, together with the Kentucky Power Shares, the "Shares"), of AEP Kentucky Transmission Company, Inc., a Kentucky corporation ("Kentucky TransCo"; Kentucky TransCo and Kentucky Power are each referred to individually as an "Acquired Company" and, collectively, as the "Acquired Companies"); and

WHEREAS, Sellers desire to sell and transfer, and Purchaser desires to purchase, all of Sellers' right, title and interest in and to the Shares for the Purchase Price, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties hereby agree as follows:

ARTICLE I

PURCHASE AND SALE

1.1 Purchase and Sale of the Shares. Upon the terms and subject to the conditions set forth in this Agreement, at the closing of the transactions contemplated by this Agreement (the "Closing"), Sellers shall transfer, convey, assign and deliver, or cause to be transferred, conveyed, assigned and delivered, to Purchaser, and Purchaser shall purchase and acquire from Sellers, the Shares, for the Closing Payment Amount, subject to the Post-Closing Adjustment (the "Sale").

1.2 Closing Payment Amount. At the Closing, Purchaser shall deliver or cause to be delivered to Sellers (and/or one or more of Sellers' designees), in immediately available funds, the Closing Payment Amount.

1.3 Closing.

(a) The Closing shall take place (i) at the offices of Morgan, Lewis & Bockius LLP ("Morgan Lewis"), 101 Park Avenue, New York, NY 10178 at 10:00 a.m., Eastern time, on the third Business Day after the date on which all of the conditions set forth in Article VII are fulfilled or waived (other than those conditions that by their nature are to be fulfilled at the Closing, but subject to the satisfaction of such conditions at the Closing) or (ii) at such other place, time or date as may be mutually

agreed upon in writing by Sellers and Purchaser (including virtually via the electronic exchange of signature pages). The date on which the Closing occurs is referred to as the "Closing Date." The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date. All actions to be taken and all documents to be executed and delivered by the Parties at the Closing shall be deemed to have been taken and executed simultaneously.

(b) At or prior to the Closing:

(i) Sellers shall deliver or cause to be delivered to Purchaser:

(A) (1) certificates evidencing all of the Shares represented by certificates, duly endorsed in blank or with stock powers duly executed in proper form for transfer and (2) with respect to all of the Shares not represented by certificates, stock powers or appropriate transfer instruments, duly executed in proper form for transfer;

(B) the certificates required to be delivered pursuant to Section 7.2(c);

(C) certificates of each Seller (or if any Seller is a disregarded entity for U.S. federal income Tax purposes, its regarded owner) satisfying the requirements of Treasury Regulations Section 1.1445-2(b)(2) or IRS Form W-9;

(D) each of the Ancillary Agreements to which any member of the Seller Group is a party, duly executed by the applicable member of the Seller Group;

(E) each of the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, duly executed by Kentucky Power and Wheeling or Successor Operator, as applicable;

(F) resignations or other evidence of removal (in a form reasonably acceptable to Purchaser), effective as of the Closing Date, of those directors and officers of the Acquired Companies as Purchaser may request not less than three (3) Business Days prior to the Closing;

(G) with respect to each Intercompany Arrangement and outstanding amount or balance due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates (other than the Acquired Companies), on the other hand, in each case, required to be severed, terminated, cancelled, settled or otherwise eliminated pursuant to Section 4.8, instruments or other evidence, in form reasonably acceptable to Purchaser, reflecting such severance, termination, cancellation, settlement or elimination, as applicable; and

(H) with respect to each Closing Indebtedness that is required to be paid at the Closing pursuant to Section 4.16, true and accurate copies of customary payoff letter and other instruments of discharge for such Closing Indebtedness, in each case in a form reasonably acceptable to Purchaser (a "Payoff Letter"), duly executed by each of the applicable holders (or agents thereof) of such Indebtedness and, as customary or appropriate, the other parties thereto.

(ii) Purchaser shall:

(A) pay or cause to be paid to Sellers (and/or one or more of Sellers' designees) by wire transfer, to the account or accounts designated by Sellers (or by such designee) in the

notice accompanying the Estimated Closing Statement (as defined below), immediately available funds in an amount equal to the Closing Payment Amount;

(B) pay or cause to be paid the Estimated Transaction Expenses, if any are designated to be paid directly at Closing, to the applicable payees, as set forth in the Estimated Closing Statement;

(C) make any payments required to be paid at Closing pursuant to Section 4.16(a) in respect of the Utility Money Pool Agreement and Section 4.16(b) in respect of the TransCo Intercompany Notes;

(D) make, or cause to be paid, any other payments required to be paid at the Closing by or on behalf of the Acquired Companies pursuant to Section 4.16;

(E) deliver to Sellers the certificate required to be delivered pursuant to Section 7.3(c);

(F) deliver or cause to be delivered to Sellers a copy of the R&W Policy, if any, with such terms as specified in Section 4.15 and paid in full by Purchaser as of the time of delivery; and

(G) deliver to Sellers each of the Ancillary Agreements to which Purchaser or its Affiliate is a party, duly executed by Purchaser or its Affiliate as applicable.

1.4 Closing Payment Adjustment.

(a) Not less than three (3) Business Days prior to the anticipated Closing Date, Sellers shall provide Purchaser with a written statement, setting forth a good-faith estimate in reasonable detail of each of the following: (i) the Estimated Closing Cash, (ii) the Estimated Net Working Capital, (iii) the Estimated Closing Indebtedness, (iv) the Estimated Capital Expenditures Amount and (v) the Estimated Transaction Expenses (the "Estimated Closing Statement"), which shall be accompanied by a notice that sets forth (A) Sellers' determination of each of the Closing Payment Adjustment and the Closing Payment Amount and (B) the account or accounts to which Purchaser shall transfer the Closing Payment Amount, the payments in respect of the Utility Money Pool Agreement and the TransCo Intercompany Notes (if any), and the Estimated Transaction Expenses designated to be paid directly at Closing (if any), in each case pursuant to Section 1.3.

(b) The Estimated Closing Statement shall be prepared in accordance with GAAP and FERC Accounting Requirements, as applicable ("Accounting Principles"), and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

1.5 Post-Closing Statement.

(a) Within sixty (60) days after the Closing Date, Purchaser shall prepare in good faith and deliver to Sellers a written statement of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses (collectively, the "Initial Closing Statement"), together with a notice that sets forth the proposed Post-Closing Adjustment and Purchase Price, as determined by Purchaser. The Initial Closing Statement shall be prepared in accordance with the Accounting Principles, and applied in a

manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II.

(b) Following the Closing through the date that the Final Closing Statement (as defined below) becomes final and binding, Sellers and their Affiliates and Representatives shall be permitted to reasonably access and review, during normal business hours upon reasonable advance notice, the books, records and work papers of the Acquired Companies, and Purchaser shall, and shall cause its Affiliates (including the Acquired Companies) and its and their respective employees, accountants and other Representatives to, cooperate with and assist Sellers and their Affiliates and Representatives in connection with such review, including by providing reasonable access during normal business hours upon reasonable advance notice to such books, records and work papers and making available personnel to the extent reasonably requested.

(c) Purchaser agrees that, following the Closing through the date that the Final Closing Statement becomes final and binding, it shall not take or permit to be taken any actions with respect to any accounting books, records, policies or procedures on which the Acquired Companies' Financial Statements or the Initial Closing Statement are based, or on which the Final Closing Statement are to be based, that are intended to impede or delay the determination of the Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, the Final Capital Expenditures Amount or the Final Transaction Expenses or the preparation of any Notice of Disagreement or the Final Closing Statement in the manner and utilizing the methods provided by this Agreement.

1.6 Reconciliation of the Post-Closing Statement.

(a) Sellers shall notify Purchaser in writing no later than forty-five (45) days after Sellers' receipt of the Initial Closing Statement if Sellers disagree with the Initial Closing Statement, which notice shall describe the basis for such disagreement (including reasonable supporting detail for such objection, including the dollar amount of any such objection) (the "Notice of Disagreement"). If no Notice of Disagreement is delivered to Purchaser by such time, then the Initial Closing Statement shall become final and binding upon the Parties in accordance with Section 1.6(c).

(b) During the thirty (30) days immediately following the delivery of a Notice of Disagreement (the "Resolution Period"), Sellers and Purchaser shall seek to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement.

(c) If, at the end of the Resolution Period, Sellers and Purchaser have been unable to resolve any differences that they may have with respect to the matters specified in the Notice of Disagreement, Sellers and Purchaser shall submit all such matters that remain in dispute with respect to the Notice of Disagreement to KPMG LLP or such other independent public accounting firm that is mutually acceptable to Purchaser and Sellers (the "Independent Accounting Firm"). As promptly as practical, but in any event within sixty (60) days after submission of such matters to the Independent Accounting Firm, the Independent Accounting Firm shall make a final determination in accordance with the Accounting Principles and applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II, and the terms and definitions of this Agreement and based solely on the written submissions of the Parties, of the appropriate amount of each of the matters that remain in dispute as indicated in the Notice of Disagreement that Sellers and Purchaser have submitted to the Independent Accounting Firm, and such final determination shall be binding on the Parties. With respect to each disputed matter, such determination, if not in accordance with the position of either Sellers or Purchaser, shall not be in excess of the higher, or less than the lower, of the amounts advocated by Sellers in the Notice of Disagreement or by Purchaser in the Initial

Closing Statement with respect to such disputed matter. The statements of (i) the Final Closing Cash, (ii) the Final Net Working Capital, (iii) the Final Closing Indebtedness, (iv) the Final Capital Expenditures Amount and (v) the Final Transaction Expenses that are final and binding on the Parties, as determined either through agreement of the Parties pursuant to Section 1.6(a) or Section 1.6(b) or through the findings of the Independent Accounting Firm pursuant to this Section 1.6(c), are referred to as the "Final Closing Statement" and the Closing Payment Amount that would be calculated substituting the Final Closing Cash for the Estimated Closing Cash, the Final Net Working Capital for the Estimated Net Working Capital, the Final Closing Indebtedness for the Estimated Closing Indebtedness, the Final Capital Expenditures Amount for the Estimated Capital Expenditures Amount and the Final Transaction Expenses for the Estimated Transaction Expenses is referred to as the "Final Payment Amount".

(d) All fees and expenses relating to the work, if any, to be performed by the Independent Accounting Firm shall be borne equally by Sellers, on the one hand, and Purchaser, on the other. During the review by the Independent Accounting Firm, each of Purchaser and Sellers shall, and shall cause their respective Affiliates (including, in the case of Purchaser, the Acquired Companies) and their respective employees, accountants and other Representatives to, each make available to the Independent Accounting Firm (during normal business hours upon reasonable advance notice) interviews with such personnel, and such information, books and records and work papers, as may be reasonably requested by the Independent Accounting Firm to fulfill its obligations under Section 1.6(c); provided, that the accountants of Sellers or Purchaser shall not be obligated to make any work papers available to the Independent Accounting Firm except in accordance with such accountants' normal disclosure procedures and then only after such Independent Accounting Firm has signed a customary agreement relating to such access to work papers. In acting under this Agreement, the Independent Accounting Firm shall act as an expert and not an arbitrator.

(e) The process set forth in Section 1.5 and this Section 1.6 shall be the sole and exclusive remedy of any of the Parties and their respective Affiliates for any disputes related to the Closing Payment Adjustment, the Post-Closing Adjustment and the calculations and amounts on which they are based or set forth in the related statements and notices delivered in connection therewith. For the avoidance of doubt, the calculations to be made pursuant to Section 1.5 and this Section 1.6 and the Closing Payment Adjustment and Post-Closing Adjustment are not intended to be used to adjust for errors or omissions that may be found with respect to the Acquired Companies' Financial Statements or any inconsistencies between the Acquired Companies' Financial Statements and GAAP or FERC Accounting Requirements, as applicable. After the determination of the Final Closing Statement for an Acquired Company, none of the Parties shall have the right to make any claim with respect to such Acquired Company based upon the preparation of the Final Closing Statement or the calculation of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses as of the Closing (even if subsequent events or subsequently discovered facts would have affected the determination of the Final Closing Statement or the calculations of Final Closing Cash, Final Net Working Capital, Final Closing Indebtedness, Final Capital Expenditures Amount or Final Transaction Expenses had such subsequent events or subsequently discovered facts been known at the time of the determination of the Final Closing Statement).

1.7 Post-Closing Adjustment. The "Post-Closing Adjustment" shall be equal to the difference (which may be a positive or negative amount) of the Final Payment Amount *minus* the Closing Payment Amount. If the Post-Closing Adjustment is a positive amount, then Purchaser shall pay or cause to be paid in cash to Sellers (or one or more of Sellers' designees) the amount of such Post-Closing Adjustment. If the Post-Closing Adjustment is a negative amount, then Sellers shall pay or cause to be paid in cash to Purchaser the absolute value of the amount of such Post-Closing Adjustment. Any such payment pursuant to this Section 1.7 shall be made within ten (10) Business Days after the determination

of the Final Closing Statement by wire transfer of immediately available funds. Any amount paid under this Section 1.7 shall be treated as an adjustment to the Purchase Price for Tax purposes and, except to the extent required by applicable Laws, the Parties agree not to take any position inconsistent with such treatment on any Tax Return.

ARTICLE II

REPRESENTATIONS AND WARRANTIES OF SELLERS

Except as set forth in the disclosure letter delivered to Purchaser in connection with the execution of this Agreement (the "Sellers Disclosure Letter"), Sellers hereby represent and warrant to Purchaser as follows:

2.1 Organization and Qualification; No Subsidiaries. AEP is a corporation duly incorporated, validly existing and in good standing under the Laws of the State of New York, and AEP TransCo is a limited liability company duly organized, validly existing and in good standing under the Laws of the State of Delaware. The Acquired Companies are corporations duly incorporated, validly existing and in good standing under the Laws of the State of Kentucky. Each of the Acquired Companies has all requisite corporate power and authority to carry on its respective businesses as now being conducted and to own, lease and operate its properties and assets where such properties or assets are now owned, leased or operated, and is qualified to do business and is in good standing as a foreign corporation or company in each jurisdiction where the conduct of its business or the property or asset owned, leased or operated by it requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. None of the Acquired Companies own any equity interests in any Person. Sellers have made available to Purchaser correct and complete copies of the Organizational Documents of each of the Acquired Companies (including all amendments thereto), and each such instrument is in full force and effect.

2.2 Capitalization of the Acquired Companies.

(a) The Shares are duly authorized, validly issued, fully paid and nonassessable, and will be transferred, conveyed, assigned and delivered to Purchaser at the Closing, free and clear of all Encumbrances (other than any Encumbrances arising under the Organizational Documents of the Acquired Companies, the Debt Agreements, or applicable securities Laws, in each case, other than as a result of any violation thereof). The Shares were not issued in violation of any Law or any Organizational Document of any of the Acquired Companies, and each of AEP and AEP TransCo has good and valid title to, and ownership, of record and beneficially, of, all of the Kentucky Power Shares and the Kentucky TransCo Shares, respectively. The Shares represent all of the issued and outstanding shares of capital stock and all of the issued and outstanding equity interests of the Acquired Companies. The Kentucky Power Shares are represented by one share certificate and, as of the Effective Date, none of the Kentucky TransCo Shares are represented by any share certificate.

(b) Except for the Shares, there are no shares of common stock, preferred stock or other equity interests of the Acquired Companies issued and outstanding or held in treasury, and there are no preemptive or other outstanding rights, subscriptions, options, warrants, stock appreciation rights, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities or other agreements, arrangements or commitments of any character relating to the issued or unissued share capital or other equity ownership interest in the Acquired Companies or any other securities or obligations convertible or exchangeable into or exercisable for, or giving any Person a right to subscribe for or acquire, any securities of the Acquired Companies, and no securities evidencing such rights are

authorized, issued or outstanding. The Acquired Companies have no outstanding bonds, debentures, notes or other obligations, and are not subject to any Contracts, that provide the holders thereof or any other Person the right to vote (or are convertible or exchangeable into or exercisable for securities having the right to vote) with the stockholders or equityholders of either of the Acquired Companies on any matter.

2.3 Authority Relative to this Agreement. Each Seller has, and each member of the Seller Group shall have prior to the Closing, all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by each Seller and each member of the Seller Group of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of such Seller, and no other proceedings on the part of a Seller or any member of the Seller Group are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement or any Ancillary Agreement to which it is or shall at Closing be a party. This Agreement has been duly and validly executed and delivered by each Seller, and, assuming the due authorization, execution and delivery of this Agreement by Purchaser, constitutes, and each Ancillary Agreement to which each Seller or any member of the Seller Group is or shall at Closing be a party, when executed and delivered by the members of the Seller Group party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by Purchaser or, if applicable, its applicable Affiliate party thereto, shall constitute a valid, legal and binding agreement of the applicable members of the Seller Group, enforceable against each such member in accordance with its terms, subject to the effect of any applicable Laws relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Laws relating to or affecting creditors' rights generally, or general principles of equity (collectively, the "Enforceability Exceptions").

2.4 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Sellers, the Acquired Companies or any member of the Seller Group for the execution, delivery and performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or such member of the Seller Group is or shall at Closing be a party or the consummation by Sellers and/or their Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than: (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the filings, notices or approvals listed on Section 2.4(a) of the Sellers Disclosure Letter (the "Additional Regulatory Filings and Consents"), (d) notice and judicial approval of a modification to the NSR Consent Decree or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Assuming, solely with respect to clauses (ii) and (iii) hereof, compliance with the items described in clauses (a) through (d) of the preceding sentence and except as set forth on Section 2.4(b) of the Sellers Disclosure Letter, neither the execution, delivery or performance by Sellers or any member of the Seller Group of this Agreement or any Ancillary Agreement to which a Seller or any member of the Seller Group is or shall at Closing be a party, nor the consummation by Sellers and/or any member of the Seller Group, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of its Organizational Documents or the Organizational Documents of the Acquired Companies, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or

acceleration) under, any of the terms, conditions or provisions of any Material Contract or material Permit to which any Acquired Company or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, an Acquired Company or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.5 Financial Statements.

(a) Section 2.5(a) of the Sellers Disclosure Letter sets forth:

(i) the audited statements of income, comprehensive income, changes in common shareholders' equity, balance sheets and cash flows and the related notes of Kentucky Power as of and for the annual periods ended December 31, 2019 and December 31, 2020 and the unaudited statements of income, comprehensive income changes in common shareholders' equity, balance sheets, and cash flows of Kentucky Power as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky Power Financial Statements") and

(ii) the audited FERC Form 1 financial statements of Kentucky TransCo as of and for the annual periods ended December 31, 2019 and December 31, 2020, and the unaudited FERC Form 3-Q financial statements of Kentucky TransCo as of and for the six-month period ended June 30, 2021 (collectively, the "Kentucky TransCo Financial Statements", and together with the Kentucky Power Financial Statements, the "Acquired Companies' Financial Statements").

(b) The Kentucky Power Financial Statements (i) have been prepared in accordance with GAAP applied on a consistent basis during the periods involved (except as may be indicated in the notes thereto) and (ii) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky Power as of the times and for the periods referred to therein (except as may be indicated in the notes thereto and except that the unaudited quarterly financial statements do not include notes that would be required by GAAP or normal year-end adjustments, which in each case will not be material in nature or amount, taken as a whole). The Kentucky TransCo Financial Statements (x) have been prepared in accordance with FERC Accounting Requirements applied on a consistent basis during the periods involved and (y) fairly present in all material respects the financial position, the stockholders' equity, the results of operations and cash flows of Kentucky TransCo as of the times and for the periods referred to therein.

(c) Except as set forth on Section 2.5(c) of the Sellers Disclosure Letter, the Acquired Companies have no liabilities or obligations that would be required by GAAP or FERC Accounting Requirements, as applicable, to be reflected or reserved against on the balance sheet of each Acquired Company other than (i) liabilities that are reflected or reserved against in the applicable Acquired Company's unaudited balance sheet (or the notes thereto) as of June 30, 2021 ("Balance Sheet Date") included in the Acquired Companies' Financial Statements, (ii) liabilities or obligations that are incurred in the ordinary course of business since the Balance Sheet Date through the Effective Date or (iii) liabilities or obligations incurred in accordance with the terms of this Agreement or any Material Contract (in each case, excluding any breach or violation thereof).

(d) Each Acquired Company has devised and maintained systems of internal accounting controls which are sufficient to provide reasonable assurances that (i) all material transactions are executed in accordance with its management's general or specific authorization, (ii) all material

transactions are recorded in the Acquired Companies' respective books and records as necessary to permit the preparation of financial statements in conformity with GAAP (in the case of Kentucky Power) or FERC Accounting Requirements (in the case of Kentucky Transco) and (iii) the recorded accountability for items in the Acquired Companies' respective books and records is compared with the actual levels thereof at reasonable intervals and appropriate action is taken with respect to any variances. The Acquired Companies' Financial Statements were derived from and are consistent with such books and records.

2.6 Absence of Certain Changes or Events. Except as contemplated by this Agreement, since the Balance Sheet Date, (a) the business of each Acquired Company has been conducted in all material respects in the ordinary course of business and (b) there has not occurred any Material Adverse Effect. The Business is the only business operation carried on by the Acquired Companies, and the assets, rights and properties of the Acquired Companies are being and have been for the last three (3) years operated and maintained in accordance with Good Utility Practice.

2.7 Sufficiency of Assets. At Closing, except for (a) Shared Contracts (or replacement arrangements), (b) the assets, rights and properties to which the Acquired Companies have continued access to or use pursuant to the Ancillary Agreements (other than services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement), the Mitchell Plant O&M Agreement and the Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter, and (c) as set forth on Section 2.7(c) of the Sellers Disclosure Letter, the assets, rights and properties of the Acquired Companies constitute all of the material assets, rights and properties required or used to enable each Acquired Company to conduct in all material respects its business as currently being conducted and as conducted in the ordinary course in the preceding twelve (12) months.

2.8 Material Contracts.

(a) Section 2.8(a) of the Sellers Disclosure Letter sets forth a list of the following Contracts to which an Acquired Company is a party or otherwise bound, which shall be deemed to constitute "Material Contracts", true and correct copies of which (including all exhibits, schedules and amendments thereto) have been made available to Purchaser prior to the date hereof:

(i) all Contracts that individually involve expenditures by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(ii) all Contracts that individually involve the receipt of payments by an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iii) the Utility Money Pool Agreement, the TransCo Intercompany Notes, the Debt Agreements, the Senior KPCo Notes, the Senior Note Purchase Agreements, and all other Contracts for, or relating to, Indebtedness of an Acquired Company in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement or under which a security interest has been imposed on any assets, rights or properties of an Acquired Company, which security interest secures outstanding Indebtedness in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(iv) all Contracts of guaranty, indemnity or surety by an Acquired Company with outstanding obligations guaranteed or indemnified by such Acquired Company or for which such Acquired Company is a surety in excess of $3,000,000 in any of the three calendar years preceding the date of this Agreement and pursuant to which an Acquired Company has ongoing obligations;

(v) all Intercompany Arrangements involving payments or receipts by or to an Acquired Company in excess of $500,000 in any of the three calendar years preceding the Effective Date or pursuant to which an Acquired Company or any member of the Seller Group has any ongoing obligations or rights with a value allocable to an Acquired Company in excess of $500,000;

(vi) all Contracts granting to any Person any right or option to purchase or otherwise acquire any assets of an Acquired Company involving consideration over the remaining term of any such Contract in excess of $5,000,000, including rights of first option, rights of first refusal, or other preferential purchase rights;

(vii) all Contracts that (x) limit the ability of an Acquired Company to compete in any activity or line of business or in any geographic area or (y) contain any obligation on an Acquired Company, or that would apply to Purchaser or its Affiliates following the Closing, to use or purchase any material good or material service exclusively from one or more Persons;

(viii) all Contracts relating to the issuance, sale, transfer, disposition, registration, liquidity, granting, encumbering, pledging, voting, repurchase or redemption of any of the Shares or any other equity securities of an Acquired Company or rights in connection therewith (other than the Organizational Documents of the Acquired Companies);

(ix) all settlement, conciliation or similar Contracts with any Governmental Entity or third party that impose any continuing monetary or other ongoing material obligations upon any of the Acquired Companies, except for Contracts filed publicly with FERC or the KPSC in connection with the settlement of a Rate Proceeding;

(x) all Master Leases;

(xi) all Shared Contracts involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date;

(xii) all Contracts for Continuing Support Obligations;

(xiii) all Contracts for the procurement of power, energy or capacity, including any power purchase agreement or Contracts committing to the development, purchase or construction of new generation, involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations, other than Contracts for purchases and sales on arm's-length terms with a delivery term of less than three (3) months ahead;

(xiv) all Contracts relating to fuel supply or transportation involving payments by an Acquired Company over the term of such Contract in excess of $3,000,000 and pursuant to which any Acquired Company has any ongoing obligations;

(xv) all Commercial Hedges having a current market value attributed or allocated to an Acquired Company or any of its assets or involving aggregate consideration or aggregate payment obligations by an Acquired Company over the term of such Contract in excess of $3,000,000;

(xvi) Contracts related to Intellectual Property owned or used by an Acquired Company involving payments or receipts in excess of $3,000,000 in value allocated to an Acquired Company in any of the three calendar years preceding the Effective Date (other than non-exclusive licenses (A) for off-the-shelf or otherwise commercially available software or (B) granted by an Acquired Company in the ordinary course of business);

(xvii) all Collective Bargaining Agreements; and

(xviii) all partnership, joint venture and joint ownership Contracts.

(b) (i) Other than any Intercompany Arrangements severed or terminated in accordance with Section 4.8(a), each Material Contract is a legal, valid and binding obligation of the applicable Acquired Company and, to the Knowledge of Sellers, each counterparty, and is in full force and effect, subject to the Enforceability Exceptions, (ii) neither the applicable Acquired Company nor, to the Knowledge of Sellers, any other party thereto is in breach of, or in default under, and no event has occurred which with notice or lapse of time or both would constitute any such breach or default, or permit termination, modification or acceleration by such other parties under, any Material Contract, (iii) no Acquired Company has waived any material right under any Material Contract, and (iv) no party to any Material Contract has notified any Seller or any Acquired Company in writing that it intends to terminate or fail to renew at the end of its term such Material Contract, materially increase rates, costs or fees charged under any Material Contract or materially reduce the level of goods or services provided under any Material Contract, except, in each case, as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

2.9 Intellectual Property. All registered trademarks and applications to register trademarks and Internet domain names, patents and patent applications and registered copyrights and applications to register copyrights included in the Owned Intellectual Property are set forth on Section 2.9 of the Sellers Disclosure Letter (collectively, the "Company Registered Intellectual Property"). Each of the Acquired Companies owns all of the Company Registered Intellectual Property indicated as being owned by such entity, as well as all other material Owned Intellectual Property, free and clear of all Encumbrances (other than Permitted Encumbrances). The Owned Intellectual Property, together with the Seller Marks, Licensed Intellectual Property, and the Intellectual Property available to the Acquired Companies pursuant the Transition Services Agreement (other than Intellectual Property embedded in services expressly excluded, or services which Purchaser declines to accept, pursuant to the Transition Services Agreement) or the Mitchell Plant O&M Agreement, constitute all of the Intellectual Property necessary to operate the business of the Acquired Companies as operated as of the Effective Date. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, the operation of the business of the Acquired Companies as of the Effective Date does not infringe, dilute, misappropriate or otherwise violate the Intellectual Property or other rights of any third parties and to the Knowledge of Sellers no third party is infringing, diluting, misappropriating or otherwise violating the Owned Intellectual Property. Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) the Acquired Companies (and Sellers, with respect to the businesses conducted by the Acquired Companies) have taken commercially reasonable measures to ensure the confidentiality and security of all hardware, software, databases, systems, networks, websites, applications and other information technology assets and equipment owned, leased, or controlled by them in connection with their businesses and any information (including personal, personally identifiable,

sensitive, regulated and confidential information) stored, transmitted, or otherwise processed thereby ("IT Assets") from unauthorized or improper access or use, (ii) during the last three (3) years, there has been no breach of or other unauthorized or improper access or use of the IT Assets, and (iii) the IT Assets are adequate for the operation of the Acquired Companies and their respective businesses, and have not experienced any malfunctions or failures.

2.10 Legal Proceedings. Except as set forth on Section 2.10 of the Sellers Disclosure Letter, there are no, and during the last three (3) years there have not been any, Actions existing, pending or, to the Knowledge of Sellers, threatened against an Acquired Company or any of its assets, rights or properties, and there are no, and during the last three (3) years there have not been any, Orders outstanding against, or which are applicable to or bind, an Acquired Company or any of its assets, rights or properties, in each case that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect or would reasonably be expected to result in the issuance of an Order restraining, enjoining or otherwise prohibiting the transactions contemplated by this Agreement or any Ancillary Agreement.

2.11 Compliance with Laws; Permits. Each Acquired Company is in compliance with all Laws and Permits applicable to it and its assets, rights, properties or business, except for violations which would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. Neither Acquired Company has received any written notice of or been charged with the violation of any Laws, except where such violation would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

2.12 Real Property; Personal Property.

(a) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company has on the Effective Date (and at the Closing shall have) (i) good and valid fee simple title to the Owned Real Property and all improvements thereon and (ii) valid leasehold interests in, or a right to use or occupy, the Leased Real Property and Easements and all improvements thereon (to the extent such improvements are leased by such Acquired Company), both free and clear, in each case, of all Encumbrances except Permitted Encumbrances and the Encumbrances listed on Section 2.12 of the Sellers Disclosure Letter.

(b) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, (i) each material lease, sublease, Easement and other agreement (each, a "Lease") under which an Acquired Company or any of its Subsidiaries uses or occupies or has the right to use or occupy any Leased Real Property or Easement at which the operations of an Acquired Company are conducted as of the date hereof is valid, binding and in full force and effect, subject to the Enforceability Exceptions, (ii) no uncured default beyond any applicable notice and cure period thereunder on the part of any Acquired Company or, to the Knowledge of Sellers, the other party thereto exists with respect to any Lease and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will, with or without notice, the passage of time, or both, give rise to any default beyond any applicable notice and cure period thereunder under any Lease. Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are no condemnation proceedings pending or, to the Knowledge of Sellers, threatened with respect to any Real Property. True and correct copies of each material real property lease have been made available to Purchaser prior to the date hereof.

(c) Except as would not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect, each Acquired Company owns, leases, licenses or has contractual rights

to use all material tangible personal property, including all material machinery, equipment and other personal property necessary for the conduct of the Business, free and clear of all Encumbrances except for Permitted Encumbrances.

2.13 Employee Benefits Matters.

(a) Section 2.13(a) of the Sellers Disclosure Letter sets forth a true and complete list of each material Seller Benefit Plan as of the Effective Date.

(b) True and complete copies have been provided or made available to Purchaser of all material Seller Benefit Plans (or, in the case of an unwritten Seller Benefit Plan, a written description thereof), including any trust instruments and insurance Contracts forming a part of any Seller Benefit Plan.

(c) All Seller Benefit Plans have been administered in compliance with their terms and with the requirements of applicable Law, including ERISA and the Code, except as such non-compliance would not reasonably be expected to have a Material Adverse Effect.

(d) The IRS has issued a valid and favorable determination, opinion or advisory letter with respect to each Seller Benefit Plan that is intended to be a "qualified plan" within the meaning of Section 401(a) of the Code (each, a "Qualified Plan") and the related trust that has not been revoked and, to the Knowledge of Sellers, no circumstances exist and no events have occurred that would, individually or in the aggregate, reasonably be expected to cause the loss of the qualified status of any Qualified Plan or the related trust. A copy of the most recent determination or opinion letter received from the IRS with respect to each Qualified Plan has been made available to Purchaser.

(e) From the date hereof and through and after the Closing Date, no circumstances shall exist that could result in any Controlled Group Liability of Sellers or any of their ERISA Affiliates (other than the Acquired Companies) becoming a Liability of the Acquired Companies or of Purchaser or its Affiliates.

(f) Except as set forth on Section 2.13(f) of the Sellers Disclosure Letter, neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated by this Agreement would reasonably be expected to, either alone or in conjunction with any other event (whether contingent or otherwise), (i) result in any payment or benefit becoming due or payable, or required to be provided, to any Acquired Company Employee (other than the payment of accrued benefits under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan), (ii) increase the amount or value of any benefit or compensation otherwise payable or required to be provided to any Acquired Company Employee, (iii) result in the acceleration of the time of payment or vesting of any compensation or benefits to any Acquired Company Employee (other than the payment of accrued benefits that were vested immediately prior to (and not as a result of) the consummation of the transactions contemplated by this Agreement under a Seller Benefit Plan as a result of an Acquired Company Employee ceasing to be an active participant under such Seller Benefit Plan) or (iv) result in any amount failing to be deductible by an Acquired Company by reason of Section 280G of the Code.

(g) Except as set forth on Section 2.13(g) of the Sellers Disclosure Letter, none of the Acquired Companies sponsor or make contributions with respect to any Benefit Plan subject to Title IV of ERISA.

(h) Except as set forth on Section 2.13(h) of the Sellers Disclosure Letter, no Acquired Company has any liability or obligation under any plan which provides medical or other welfare or death benefits with respect to any Acquired Company Employees beyond their termination of employment or service (other than coverage mandated by Law at the sole expense of the applicable participant).

(i) With respect to any Seller Benefit Plan, no Actions (other than routine claims for benefits in the ordinary course) are pending or, to the Knowledge of Sellers, threatened.

(j) No Acquired Company maintains any Seller Benefit Plan outside the jurisdiction of the United States or that cover any Acquired Company Employees residing or working outside of the United States.

(k) This Section 2.13 contains the exclusive representations and warranties of Sellers with respect to employee benefits matters. No other provision of this Agreement shall be construed as constituting a representation or warranty regarding such matters.

2.14 Labor Matters.

(a) Section 2.14(a) of the Sellers Disclosure Letter sets forth a list of the Acquired Company Employees as of the Effective Date, which list shall be amended prior to the Closing to reflect the addition of any employee who is hired by, or transferred to, an Acquired Company following the Effective Date and the removal of any individual whose employment with an Acquired Company is terminated prior to the Closing, and any employee of an Acquired Company whose work relates primarily to Mitchell (the "Mitchell Employees") and whose employment is transferred from an Acquired Company to an Affiliate of the Sellers (other than the Acquired Companies) prior to the Closing Date. Sellers have provided to Purchaser the following information on a confidential basis: each Acquired Company Employee's current base salary or wage rate and target bonus for the 2021 fiscal year (if any), position, date of hire (and, if different, years of recognized service), status as exempt or non-exempt under the Fair Labor Standards Act, and whether such Acquired Company Employee is on leave status, which information shall be updated prior to Closing to reflect changes made consistent with the first sentence of this Section 2.14(a).

(b) Except as set forth on Section 2.14(b) of the Sellers Disclosure Letter, none of Sellers or any Affiliates nor either Acquired Company is a party to or bound by any collective bargaining agreement or similar labor union Contract with respect to any of the Acquired Company Employees, no such agreement is presently being negotiated, and no Acquired Company Employees are, with respect to their employment, represented by a labor union. To the Knowledge of Sellers, since January 1, 2018, (i) there have been no labor union representation election proceedings, other than as set forth in Section 2.14(b) of the Sellers Disclosure Letter, with respect to Acquired Company Employees pending or threatened to be brought or filed with the National Labor Relations Board, and (ii) there have been no pending or threatened labor union organizing campaigns with respect to Acquired Company Employees. Since January 1, 2018, there have been no labor union strikes, slowdowns, work stoppages or lockouts or other material labor disputes pending or threatened against or affecting the Acquired Companies or involving employees of any Acquired Company.

(c) Except as set forth on Section 2.14(c) of the Sellers Disclosure Letter, since January 1, 2018, none of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has closed any site of employment, effectuated any group

layoffs of employees or implemented any early retirement, exit incentive, or other group separation program, nor has any such action or program been planned or announced for the future.

(d) Except as set forth on Section 2.14(d) of the Sellers Disclosure Letter, since January 1, 2018, no officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has been the subject of an allegation in the workplace of sexual harassment or sexual assault, nor, to the Knowledge of Seller, has any officer, director or management level employee of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies engaged in sexual harassment or sexual assault. None of Sellers or their Affiliates (solely as it relates to the business of the Acquired Companies) or the Acquired Companies has entered into any settlement agreements related to allegations of sexual harassment or misconduct by any employee.

2.15 Taxes. Except as set forth on Section 2.15 of the Sellers Disclosure Letter:

(a) All material Tax Returns required to be filed by, or with respect to, each Acquired Company have been filed (taking into account extensions), and all Tax Returns filed by, or with respect to, each Acquired Company are accurate and complete in all material respects.

(b) All material Taxes required to be paid by, or with respect to, each Acquired Company (whether or not shown on any Tax Return) have been paid.

(c) Neither Acquired Company has received any written notice of any currently pending actions for the assessment or collection of any material Taxes.

(d) There are no Encumbrances for material Taxes against any assets of the Acquired Companies or the Shares, other than Permitted Encumbrances.

(e) No claim that is currently unresolved has been made by any Governmental Entity in a jurisdiction where any Acquired Company does not file Tax Returns that such Acquired Company is subject to taxation by such jurisdiction.

(f) No Tax Proceeding with respect to any material Taxes of any Acquired Company is existing, pending or being threatened in writing.

(g) Each Acquired Company has materially complied with its obligations to deduct, withhold and timely pay to the appropriate Governmental Entity all Taxes required to have been deducted, withheld or paid in connection with amounts owing to any employee, former employee, independent contractor, creditor, stockholder or other third party, and each Acquired Company has materially complied with all reporting and record keeping requirements in respect of Taxes.

(h) No Acquired Company (i) currently has in effect a waiver of any statute of limitations in respect of Taxes or (ii) has agreed to any extension of time with respect to a Tax assessment or deficiency which extension is currently in effect (except for automatic extensions of time to file income Tax Returns obtained in the ordinary course of business).

(i) During the past six years, no Acquired Company (i) has been a member of a Tax group filing a consolidated, combined, unitary or similar Tax Return (other than the Seller Affiliated Tax Group), (ii) is a party to, or has an obligation under, any Tax sharing, Tax indemnification, or Tax allocation agreement or similar contract or arrangement (other than any Tax sharing agreement among

the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes) and (iii) has liability for the Taxes of any other Person except for a member of the Seller Affiliated Tax Group under Treasury Regulations Section 1.1502-6 (or any similar provision of state, local or foreign Law), as a transferee or successor, or by contract (other than any Tax sharing agreement among the members of the Seller Affiliated Tax Group which, with respect to the Acquired Companies, shall be terminated on or before the Closing Date and any customary commercial contract entered into in the ordinary course of business the principal subject of which is not Taxes).

(j) No Acquired Company will be required to include any material amounts in income, or exclude any material items of deduction, in a taxable period (or portion thereof) beginning after the Closing Date as a result of (i) a change in (or incorrect method of) accounting occurring prior to the Closing, (ii) an installment sale or open transaction arising in a taxable period (or portion thereof) ending on or before the Closing Date, (iii) a prepaid amount received, or paid, prior to the Closing, (iv) a "closing agreement" as described in Section 7121 of the Code (or any corresponding or similar provision of state or local income Tax Law) executed on or prior to the Closing Date, or (v) any intercompany transactions or any excess loss account described in Treasury Regulations under Section 1502 of the Code (or any corresponding or similar provision of state or local income Tax Law). No Acquired Company has made an election under Section 965 of the Code.

(k) No Acquired Company has participated in nor has any liability or obligation with respect to any "listed transaction" within the meaning of Treasury Regulations Section 1.6011-4.

(l) During the two-year period ending on the date hereof, no Acquired Company has been a "distributing corporation" or a "controlled corporation" within the meaning of Section 355(a)(1)(A).

(m) Each Acquired Company has collected all material sales and use Taxes required to be collected, and has remitted, or will remit on a timely basis, such amounts to the appropriate governmental authorities, or has been furnished properly completed exemption certificates.

2.16 Environmental Matters. Except for such matters that would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect:

(a) All Environmental Permits that are necessary for the operation of the business of each Acquired Company as it is currently being operated have been obtained or timely applied for and are in full force and effect, and there is no reasonable basis for any revocation, non-issuance, non-renewal or adverse modification of any such Environmental Permit; and each Acquired Company is in compliance with the requirements of all, and since January 1, 2018 has not violated any, applicable Environmental Laws.

(b) Except for matters that have been fully resolved with no further obligation or are set forth on Section 2.16(b) of the Sellers Disclosure Letter, neither Acquired Company is subject to any consent decree, agreement, or Order with any Governmental Entity or any other Person arising under Environmental Laws or regarding any Hazardous Material, and neither Acquired Company has received any written notice from a Governmental Entity regarding any unresolved actual or alleged violation of Environmental Laws.

(c) Except as set forth on Section 2.16(c) of the Sellers Disclosure Letter, there is and has been no Release by any Acquired Company from, in, or on any of the Real Property (except as authorized under Environmental Laws or Environmental Permits) or at any other location for which any Acquired Company may be liable that would reasonably be expected to result in an Environmental Claim against an Acquired Company, require investigation or remediation, or adversely affect the use of any Real Property in a manner consistent with the Acquired Company's use of that property.

(d) Except as set forth on Section 2.16(d) of the Sellers Disclosure Letter, there are no Environmental Claims existing, pending, threatened in writing or, to the Knowledge of Sellers, threatened orally, against an Acquired Company that have not been fully and finally resolved with no further obligation.

(e) Except as set forth on Section 2.16(e) of the Sellers Disclosure Letter, no Acquired Company has assumed or retained as a result of any Contract any liability under any Environmental Law or regarding any Hazardous Materials.

(f) Sellers have made available to Purchaser all material reports of any environmental or health and safety audits performed since January 1, 2018, environmental site assessments, environmental investigations, environmental remediation, environmental impact reviews, or other similar documents containing material information regarding any Acquired Company, the Real Property, or any other location for which any Acquired Company may be liable, to the extent within the possession or control of Sellers or any Acquired Company.

2.17 Brokers. Except for Barclays Capital Inc. and Goldman Sachs & Co. LLC, no broker, investment banker, financial advisor or other Person is entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of an Acquired Company or Sellers or any of their respective Affiliates.

2.18 Regulatory Matters. Kentucky Power is a "Utility" as defined in Kentucky Revised Statutes KRS Chapter 278.010 and is subject to regulation as a "Utility" pursuant to the rules and regulations promulgated by the KPSC. Each of Kentucky Power and Kentucky TransCo is a "public utility" pursuant to Part II of the FPA and subject to regulation as a "public utility" under the FPA and pursuant to the rules and regulations promulgated by FERC.

2.19 Insurance. Section 2.19 of the Sellers Disclosure Letter sets forth a true and complete list of all insurance policies (other than title insurance policies) covering the Acquired Companies or their assets or operations. True and complete copies of all such policies have been made available to Purchaser or will be made available to Purchaser upon request prior to the Closing Date. Except as would not reasonably be likely, individually or in the aggregate, to have a Material Adverse Effect, (i) each Acquired Company is insured with reputable insurers or is self-insured against such risks and in such amounts as Sellers reasonably have determined to be consistent with Good Utility Practice, and the Sellers and each Acquired Company are in compliance in all material respects with each such insurance policy and are not in default under any such policy, (ii) each such policy is in full force and effect, (iii) all premiums have been paid in full when due, (iv) all matters that are the subject of claims under insurance policies covering the Acquired Companies or their assets or operations have been properly notified, asserted and submitted pursuant to the terms of such policies and no insurer has denied coverage for any such claim and (v) no written notice of cancellation, termination or nonrenewal (other than written notice of nonrenewals issued by insurers in the ordinary course of business that would not reasonably be expected to result in any gap in coverage for the Acquired Companies or their assets or

operations) has been received by Sellers or an Acquired Company with respect to any such insurance policy.

2.20 Anti-Corruption; Trade Compliance and Economic Sanctions.

(a) Each Acquired Company and each of their respective directors, managers, officers, and employees (each, an "Acquired Company Representative") is and at all times has been, and to such Persons' knowledge, their agents and other Persons when acting on their behalf pursuant to a legal relationship have been, in compliance in all material respects with the U.S. Foreign Corrupt Practices Act of 1977, as amended, and all other anti-corruption and anti-bribery laws of all jurisdictions in which the Acquired Companies conduct business.

(b) Each Acquired Company and each Acquired Company Representative is and at all times has been in compliance in all material respects with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State's Directorate of Defense Trade Controls, and the U.S. Department of Commerce's Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(c) No Acquired Company or any Acquired Company Representative is: (i) located, organized, resident or operating in a country or territory that is currently the target of a comprehensive trade embargo by the U.S. government (currently, Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) (each, a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, the Specially Designated Nationals ("SDN") and Blocked Persons List, the Entity List, or the Denied Persons List, or is owned 50% or more by any of the foregoing (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

2.21 No Other Representations or Warranties. Except for the representations and warranties expressly set forth in this Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or shall be deemed to have made, and Sellers hereby expressly disclaim and negate, any other express or implied representation or warranty whatsoever (whether at Law (including at common law or by statute) or in equity) with respect to Sellers or the Acquired Companies or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and any such representations or warranties are expressly disclaimed. Each Seller acknowledges and agrees that, except for the representations and warranties contained in Article III or in the Ancillary Agreements, neither Purchaser nor any other Person on behalf of Purchaser has made or makes, and such Seller has not relied upon, any representation or warranty, whether express or implied, with respect to Purchaser or its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to such Seller or any of its Representatives by or on behalf of Purchaser, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE III

REPRESENTATIONS AND WARRANTIES OF PURCHASER

Except as set forth in the disclosure letter delivered to Sellers in connection with the execution of this Agreement (the "Purchaser Disclosure Letter"), Purchaser hereby represents and warrants to each Seller as follows:

3.1 Organization and Qualification. Purchaser is an entity duly organized, validly existing and in good standing under the Laws of Delaware. Purchaser has all requisite corporate power and authority to carry on its businesses as now being conducted and is qualified to do business and is in good standing as a legal entity in each jurisdiction where the conduct of its business requires such qualification, except for any such failures that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.2 Authority Relative to this Agreement. Purchaser has all necessary power and authority to execute, deliver and perform this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party and to consummate the transactions contemplated by this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party in accordance with the terms hereof and thereof. The execution, delivery and performance by Purchaser of this Agreement and the Ancillary Agreements to which it is or shall at Closing be a party, and the consummation of the transactions contemplated hereby and thereby, have been, or shall be prior to the Closing, duly and validly authorized by all necessary action on part of Purchaser, and no other proceedings on the part of Purchaser are, or shall be as of immediately preceding the Closing, necessary to authorize the execution, delivery and performance, as applicable, of this Agreement. This Agreement has been duly and validly executed and delivered by Purchaser, and, assuming the due authorization, execution and delivery of this Agreement by Sellers, constitutes, and each Ancillary Agreement to which Purchaser is or shall at Closing be a party, when executed and delivered by Purchaser and/or its applicable Affiliate party thereto, and, assuming the due authorization, execution and delivery of such Ancillary Agreement by the applicable member of the Seller Group, shall constitute, a valid, legal and binding agreement of Purchaser and/or its applicable Affiliates, enforceable against Purchaser and/or such Affiliates in accordance with its terms, subject to the Enforceability Exceptions.

3.3 Consents and Approvals; No Violations. No filing with or notice to, and no consent or approval of, any Governmental Entity is required to be obtained or made on the part of Purchaser or any of its Affiliates for the execution, delivery and performance by Purchaser and/or its Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party or the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby, other than (a) the Required Regulatory Approvals, (b) the Mitchell Plant Approvals, (c) the Additional Regulatory Filings and Consents, (d) notice and judicial approval of a modification to the NSR Consent Decree, or (e) any permit, declaration, filing, authorization, registration, consent or approval, of which the failure to make or obtain would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. Assuming compliance with the items described in clauses (a) through (e) of the preceding sentence, neither the execution, delivery or performance by Purchaser and/or their Affiliates, as applicable, of this Agreement or any Ancillary Agreement to which such Person is or shall at Closing be a party, nor the consummation by Purchaser and/or its Affiliates, as applicable, of the transactions contemplated hereby or thereby shall (i) conflict with or result in any breach or violation of any provision of Purchaser's Organizational Documents, (ii) result in a breach or violation of, or constitute (with or without due notice or lapse of

time or both) a default (or give rise to the creation of any Encumbrance, except for Permitted Encumbrances, or any right of termination, amendment, cancellation or acceleration) under, any of the terms, conditions or provisions of any material Contract or material Permit to which Purchaser or any of its assets, rights, properties or business is bound or (iii) violate any Law applicable to, or result in the creation of any Encumbrance (other than for Permitted Encumbrances) upon, Purchaser or any of its rights, properties, business or assets, except, in the case of clauses (ii) or (iii), for breaches, violations, defaults, Encumbrances or rights of termination, amendment, cancellation or acceleration that would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.4 Legal Proceedings. There is no Action existing, pending or, to the Knowledge of Purchaser, threatened in writing, against Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect. No Order has been imposed on Purchaser except as would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

3.5 Trade Compliance and Economic Sanctions.

(a) Purchaser and its directors, managers, officers, employees, resellers, distributors, and any other Persons acting on behalf thereof, are and at all times have been, in compliance with all applicable Laws pertaining to trade and economic sanctions and export controls, including such laws and regulations administered and enforced by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of State Directorate of Defense Trade Controls, and the U.S. Department of Commerce Bureau of Industry and Security (collectively, "U.S. Trade Controls").

(b) Neither Purchaser nor any of its directors, managers, officers, employees, nor any other Person acting on behalf thereof, is: (i) located, organized, resident or operating in a country or territory that is or may, from time to time be, the target of a comprehensive trade embargo by the U.S. government (a "Sanctioned Country"); (ii) the target of restrictions on trade by reason of U.S. Trade Controls, including being identified on a U.S. Government denied, debarred or otherwise prohibited party list, such as, without limitation, Specially Designated Nationals ("SDN") and Blocked Persons List, owned fifty percent or more, in the aggregate, by one or more SDNs, Entity List, Denied Persons List, Nonproliferation Sanctions, Arms Export Control Act Debarred List (collectively, a "Prohibited Party"); or (iii) engaged in dealings or transactions in or with a Sanctioned Country or Prohibited Party in violation of U.S. Trade Controls.

3.6 Brokers. Purchaser or one of its Affiliates shall be solely responsible for the fees and expenses of any broker, finder or investment banker entitled to any brokerage, finder's or other fee or commission in connection with the transactions contemplated by this Agreement based upon arrangements made by or on behalf of Purchaser or any of its Affiliates.

3.7 Financial Capability.

(a) Purchaser has available as of the Effective Date (including pursuant to one or more financing commitments), and shall have available on and after the Closing Date, as applicable, funds sufficient to pay the Purchase Price, all expenses and other amounts, payable pursuant to this Agreement and the payments described in Section 4.16, if and when required in accordance with the applicable Debt Agreement, and shall be able to pay all such amounts and otherwise perform the obligations of Purchaser under this Agreement. In no event shall the receipt or availability of any funds

or financing by Purchaser or any of its Affiliates or any other financing or other transactions be a condition to any of Purchaser's obligations hereunder.

(b) Purchaser has delivered to Sellers true, correct and complete copies of an executed, binding guaranty by Algonquin Power & Utilities Corp., a corporation organized under the Laws of Canada (the "Guarantor"), in favor of Sellers, dated as of even date herewith, which provides for a guaranty of certain obligations of Purchaser under this Agreement (the "Purchaser Guaranty"). The Purchaser Guaranty is a legal, valid and binding obligation of the Guarantor, is in full force and effect and is enforceable in accordance with the terms thereof against the Guarantor. The Purchaser Guaranty has not been amended or modified (and no waiver of any provision thereof has been granted), and the obligations and commitments contained in the Purchaser Guaranty have not been withdrawn or rescinded in any respect and no event has occurred that would result in any breach of violation of, or constitute a default under, the Purchaser Guaranty. Each Seller is an express beneficiary of the Purchaser Guaranty and is entitled to enforce the Purchaser Guaranty in accordance with its terms against the Guarantor.

(c) Assuming (1) the representations and warranties contained in Article II of this Agreement are true and correct (for these purposes, without giving effect to any "to the Sellers' knowledge, "materiality" or "Material Adverse Effect" qualifications or exceptions therein) as of the date hereof and as of the Closing Date as though made on and as of the Closing Date (except to the extent such representations and warranties are made on and as of a specified date, in which case assuming the same continue on the Closing Date to be true and correct as of the specified date), (2) the Acquired Companies and Sellers have, prior to the Closing, complied in all material respects with their respective covenants contained in this Agreement, (3) the satisfaction of the conditions set forth in Article VII and (4) immediately prior to giving effect to the transactions contemplated by this Agreement, the Acquired Companies were able to pay their respective liabilities, including contingent and other liabilities, as they mature, after giving effect to the transactions contemplated by this Agreement, Purchaser and the Acquired Companies will, immediately following the Closing, (i) collectively, be able to pay their debts as such debts become due, (ii) have capital sufficient to carry out their respective businesses as now contemplated and (iii) own assets and properties having a value both at fair market valuation and at fair saleable value in the ordinary course of business greater than the amount required to pay their respective Indebtedness and other obligations as the same mature and become due.

3.8 Investment Decision. Purchaser is acquiring the Shares for investment and not with a view toward or for the resale in connection with any distribution thereof, or with any present intention of distributing or selling such Shares. Purchaser acknowledges that the Shares have not been registered under the Securities Act or any other federal, state, foreign or local securities Law, and agrees that such Shares may not be sold, transferred, offered for sale, pledged, distributed, hypothecated or otherwise disposed of without registration under the Securities Act, except pursuant to an exemption from such registration available under the Securities Act, and in compliance with any other federal, state, foreign or local securities Law, in each case, to the extent applicable. Purchaser is an "accredited investor" within the meaning of Rule 501(a) of the Securities Act, is able to bear the economic risk of holding the Shares for an indefinite period and has sufficient knowledge and experience in financial and business matters so as to be capable of evaluating the merits and risk of its investment in the Shares.

3.9 Independent Investigation. Purchaser has such knowledge and experience in financial and business matters of this type and in the businesses of the Acquired Companies as is required for evaluating the merits and risks of its purchase of the Shares and is capable of such evaluation. Purchaser acknowledges and agrees that it has conducted its own independent review and analysis, and, based thereon, has formed an independent judgment concerning the businesses, affairs, assets, liabilities, conditions, results of operations and prospects of the Acquired Companies. Purchaser acknowledges that

it has conducted due diligence that it deems appropriate, including a review of the documents contained in a data room prepared by or on behalf of Sellers and the Acquired Companies, that Sellers have made available to Purchaser such documents, records and books pertaining to the Acquired Companies that Purchaser or its Representatives have requested, and Purchaser has had the opportunity to visit the Acquired Companies, its facilities, plants, offices and other properties and ask questions and receive answers to Purchaser's satisfaction concerning the Acquired Companies and the terms and conditions of this Agreement.

3.10 No Other Representations or Warranties; No Reliance. Except for the representations and warranties expressly set forth in this Article III or in the Ancillary Agreements, none of Purchaser or any other Person on behalf of Purchaser has made or shall be deemed to have made, and Purchaser hereby expressly disclaims and negates any other express or implied representation or warranty whatsoever (whether at law (including at common law or by statute) or in equity) with respect to Purchaser, its Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information provided to Sellers or any of its Representatives by or on behalf of Purchaser, and any such representations or warranties are expressly disclaimed. In connection with the due diligence investigation of the Acquired Companies by Purchaser, Purchaser has received and may continue to receive from the Acquired Companies certain projections, forecasts, estimates or budgets made available to Purchaser or any of their Representatives of future revenues, future results of operations (or any component thereof), future cash flows or future financial condition (or any component thereof) of Sellers or their Affiliates. Purchaser acknowledges and agrees that (a) there are uncertainties inherent in attempting to make such projections and other forecasts and plans, (b) Purchaser is familiar with such uncertainties, (c) Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of all projections and other forecasts and plans so furnished it to it, and (d) except for the representations and warranties contained in Article II or in the Ancillary Agreements, neither Sellers nor any other Person on behalf of Sellers has made or makes, and Purchaser has not relied upon, any representation or warranty, whether express or implied, with respect to the Acquired Companies, Sellers or their Affiliates or any matter relating to any of them, including their respective businesses, affairs, assets, liabilities, financial condition or results of operations, or with respect to the accuracy or completeness of any other information made available to Purchaser or any of its Representatives by or on behalf of Sellers, and that any such representations or warranties and rights or claims relating thereto are expressly disclaimed.

ARTICLE IV

ADDITIONAL AGREEMENTS

4.1 Conduct of Business.

(a) Except (1) as contemplated in this Agreement (including, for the avoidance of doubt, the actions described in Section 4.8 and Section 4.20), as required by applicable Law, or as required by a Governmental Entity (including pursuant to an Order issued by FERC, the KPSC or the WVPSC), (2) actions reasonably necessary under emergency circumstances, including operational emergencies, failures of facilities or outages, or other unforeseen operational emergencies (provided that Sellers shall provide notice to Purchaser of any such event (including by providing reasonable details thereof) and action prior to taking any such action as may be reasonably practicable or, if such prior notice is not reasonably practicable, as soon as may be reasonably practicable thereafter), (3) for any COVID-19 Measures (provided, that Sellers shall notify Purchaser (including by providing reasonable details thereof) prior to taking any such COVID-19 Measure as may be reasonably practicable or, if such

prior notice is not practicable, as soon as may be reasonably practicable thereafter), or (4) as otherwise described in Section 4.1(a) of the Sellers Disclosure Letter (provided, that any action taken pursuant to clauses (1) through (3) shall be taken in accordance with Good Utility Practice), during the period from the Effective Date through and including the Closing, Sellers shall, and shall cause each Acquired Company to, (x) operate the businesses of each Acquired Company in accordance with Good Utility Practice and in the ordinary course of business in all material respects consistent with past practice, use commercially reasonable efforts to preserve intact the properties, assets and businesses of each Acquired Company and preserve the goodwill and relationships of each Acquired Company with employees, customers, suppliers, and other parties having business dealings with each Acquired Company and (y) not, without the prior written consent of Purchaser (which consent shall not be unreasonably withheld, conditioned or delayed):

(i) sell, lease (as lessor), license (as licensor), assign, transfer, or otherwise dispose of any of the assets, rights or properties of an Acquired Company, other than (A) the use or sale of inventory in the ordinary course of business, (B) the disposal of obsolete assets or non-exclusive licensing of Intellectual Property, in each case, with immaterial book value in the ordinary course of business, (C) pursuant to obligations under Material Contracts with third parties in effect on the Effective Date, (D) sales of customer and credit card receivables to AEP Credit, Inc. in connection with its receivables financing program in the ordinary course of business, (E) in connection with settlements, compromises, consent decrees or settlement agreements otherwise permitted under this Section 4.1(a), (F) the sale, assignment, transfer or conveyance of the Mitchell Assets to Successor Operator pursuant to Section 4.20 or any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, (G) the disposal of assets of an Acquired Company, in either case, having an aggregate value of less than $5,000,000 in the ordinary course of business or (H) the transfer, sale or disposal of spare parts to an Affiliate in compliance with applicable Law in the ordinary course of business in an amount not to exceed $5,000,000 in the aggregate;

(ii) acquire (including by merger, consolidation or acquisition of a material amount of stock or assets or any other business combination) any business, division or all or substantially all of the capital stock (or other equity interests), assets, properties or rights of any Person or otherwise make any investments in any Person;

(iii) enter into, assign, materially amend, grant any material waiver or consent under or voluntarily terminate any Material Contract or any Contract that would, if in effect on the Effective Date, be a Material Contract or that would involve expenditures by an Acquired Company or payments to an Acquired Company in excess of $5,000,000 in the aggregate in any 12-month period that is not terminable by the applicable Acquired Company upon less than 180 days' notice without penalty, or terminate, assign, relinquish any material rights under, or amend any of the Material Contracts (other than, except with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), (A) with respect to terminations, assignments, relinquishments, amendments, or grants of any material waiver or consent in the ordinary course of business, (B) Intercompany Arrangements to be terminated, severed, withdrawn or replaced prior to the Closing pursuant to Section 4.8(a), (C) Contracts that shall be performed prior to the Closing, (D) Contracts entered into in the ordinary course to replace an existing Contract, in whole or in part, on substantially similar terms as such existing Contract at current market prices, (E) Commercial Hedges with a term of less than 18 months that are entered into in the ordinary course of business, (F) any Contract entered into, assigned or amended to the extent strictly necessary to effect any action otherwise expressly permitted pursuant to the other provisions of this Section 4.1(a)) and (G) the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement in accordance with the terms of this Agreement);

(iv) except as may be required by any Seller Benefit Plan as in effect on the Effective Date or as required by any Collective Bargaining Agreement or as expressly contemplated by Article V, (A) materially increase the compensation or benefits of any Acquired Company Employee (excluding (x) increases in salaries, wages and benefits of, or payments of bonuses or other grants or awards made to, such Acquired Company Employees in the ordinary course of business (including in connection with general merit-based increases) or (y) as expressly contemplated by Article V); (B) hire, terminate or transfer into or out of the Business any Acquired Company Employee at the Vice President level (or its equivalent) or higher or any Acquired Company Employee who performs material services for the Business (other than the Mitchell Employees as contemplated by Section 4.20 or employees set forth on Section 5.2 of the Sellers Disclosure Letter); (C) grant any severance or termination pay to any Acquired Company Employee, other than in the ordinary course of business, or (D) loan or advance any money or any other property to any Acquired Company Employee except pursuant to any Seller Benefit Plan;

(v) [Reserved];

(vi) implement or announce any employment-site closings or reductions-in-workforce involving or relating to the Acquired Companies reasonably expected to result in employment losses among the Acquired Employees sufficient to trigger the notice requirements of the WARN Act;

(vii) (A) amend any Acquired Company's Organizational Documents (except for immaterial or ministerial amendments), (B) adjust, split, reverse split, combine, subdivide, reclassify, redeem, repurchase or otherwise acquire, directly or indirectly, any capital stock or equity interest in an Acquired Company or make any other change with respect to the capital structure of any Acquired Company, or (C) declare, set aside, make or pay any non-cash dividend or non-cash distribution to any Person with respect to an Acquired Company;

(viii) create, incur, assume or guarantee Indebtedness of an Acquired Company, except for borrowings incurred in the ordinary course of business (A) under an Acquired Company's existing credit facilities up to the current limits thereof, (B) under the Utility Money Pool Agreement, and (C) under the Debt Agreements;

(ix) cancel any third party Indebtedness owed to any Acquired Company or waive any claims or rights with respect to such Indebtedness except in the ordinary course of business in an amount up to $3,000,000 in the aggregate;

(x) issue, sell, grant, encumber, pledge or dispose of, or agree or authorize to issue, sell, grant, encumber, pledge or dispose of, any equity or voting securities or interests, or any options, warrants, securities convertible, exchangeable or exercisable for, or other rights of any kind to acquire, any shares of an Acquired Company's capital stock, including the Shares, or other equity or voting securities or interests or rights of any kind of any Acquired Company or any debt securities which are convertible into or exchangeable for such capital stock or equity securities or interests of any Acquired Company;

(xi) make any material change in financial accounting methods, principles or practices of an Acquired Company, except (A) as required by any change in GAAP or FERC Accounting Requirements, as applicable (or any interpretation thereof) or (B) for any change required to be made

under GAAP or FERC Accounting Requirements, as applicable, or applicable Law to the consolidated financial accounting methods, principles or practices of the Seller Group as a whole;

(xii) make any materially adverse change to the security or operations of the IT Assets;

(xiii) except as required by applicable Law, and other than with respect to items reflected on Tax Returns of the Seller Affiliated Tax Group and Taxes for which Sellers are responsible pursuant to the terms of this Agreement, (A) change any Tax accounting period, (B) adopt or change any method of Tax accounting, (C) make, change or revoke any material Tax election, (D) settle or compromise any audit, Action or assessment in respect of a material amount of Taxes, (E) apply for any Tax ruling, (F) amend, in any material respect, any material Tax Return, (G) request or surrender any right to claim a refund of a material amount of Taxes, or (H) consent to any extension or waiver of the limitation period applicable to any Taxes of the Acquired Companies, in each case, if such action would have a material detrimental effect on Purchaser or, after the Closing, an Acquired Company;

(xiv) dissolve, adopt a plan of complete or partial liquidation, or effect a merger, consolidation, restructuring, reorganization or recapitalization, with respect to an Acquired Company;

(xv) (A) settle, discharge or compromise any Action (except for any Action in connection with obtaining the Mitchell Plant Approvals in accordance with this Agreement or involving monetary damages to be paid by an Acquired Company in excess of $3,000,000 in the aggregate without any admission of guilt, injunctive or other equitable relief) or (B) enter into any material Order, consent decree or settlement agreement with any Governmental Entity, in each case of clauses (A) and (B), in any way relating to the business of an Acquired Company, including with respect to any Rate Proceeding;

(xvi) subject any material asset of an Acquired Company to any Encumbrance, other than Permitted Encumbrances or Encumbrances that shall be released at or prior to the Closing;

(xvii) engage in any material new line of business;

(xviii) cancel, terminate, cause to lapse or otherwise fail to maintain any insurance policy as in effect on the date hereof covering an Acquired Company unless such insurance policy is replaced with a commercially reasonable replacement insurance policy consistent with Good Utility Practice with no gap in coverage; or

(xix) agree or commit to do or take any action described in this Section 4.1(a).

(b) Nothing contained in this Agreement shall give Purchaser, directly or indirectly, the right to control or direct Sellers' or any of their Affiliates' (including, prior to the Closing, an Acquired Company's) businesses or operations.

(c) Notwithstanding anything herein to the contrary, the Acquired Companies may incur capital expenditures (i) up to the aggregate amount and for the express purposes reflected in the capital plan set forth in Section 4.1(c) of the Sellers Disclosure Letter, plus an amount that is equal to fifteen percent (15%) above such aggregate amount; or (ii) with respect to which the applicable Seller

has not received a written objection from Purchaser within ten (10) Business Days after a written request by such Seller for approval of such capital expenditures.

(d) Purchaser acknowledges that certain of the Collective Bargaining Agreements applicable to the Covered Employees may expire prior to the Closing and that such agreements cover employees of companies in the Seller Group in addition to those which are employed by or perform services for the Acquired Companies. Sellers shall keep Purchaser reasonably informed of the status and proposed terms of such negotiations, extensions or renewals, as the case may be (and reasonably consider in good faith Purchaser's comments in respect thereof, to the extent applicable to any Covered Employees). In the event that (i) any amendment, modification, extension or replacement of any Collective Bargaining Agreements that apply to employees of Sellers or their Affiliates (including the Covered Employees) contains terms and conditions that are reasonably likely to have a material disproportionate and adverse effect on the Acquired Companies with respect to the Covered Employees as compared to similarly situated employees of other Affiliates of the Sellers, or (ii) any material amendment, modification, extension or replacement of any Collective Bargaining Agreement that is applicable solely to Covered Employees (as opposed to Collective Bargaining Agreements that apply to other employees of Sellers or their Affiliates, other than the Covered Employees) contains terms and conditions that differ in any material or adverse respect from the existing Collective Bargaining Agreements applicable to the Covered Employees that are in effect on the Effective Date, any such amendment, modification, extension or replacement described in the foregoing clauses (i) or (ii) shall be subject to Purchaser's prior written consent, such consent not to be unreasonably withheld, conditioned or delayed.

(e) If the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement becomes effective prior to Closing, none of Sellers or any of their Affiliates (including any Acquired Company) shall (i) effect or consent to any waiver, amendment or modification thereunder or take any action thereunder that would require the consent of Kentucky Power or the Operating Committee (as defined in the Mitchell Plant Ownership Agreement) and that, in each case, would affect ~~in any material respect~~ the rights, obligations or operations of Purchaser or its Affiliates (including any Acquired Company) at any time from and after Closing or (ii) adopt or agree to (including in connection with the execution or effectiveness of the Mitchell Plant Ownership Agreement or the Mitchell Plant O&M Agreement) or amend either (A) the Capital Budget, the initial annual operating budget or the initial forecast contemplated by the Mitchell Plant Ownership Agreement or (B) the Budget and Plan contemplated by the Mitchell Plant O&M Agreement, in each case of clauses (i) and (ii), without the prior written consent of Purchaser, which consent shall not be unreasonably withheld, conditioned or delayed.

(f) As soon as practicable following the Effective Date and prior to the Closing, the Parties shall negotiate in good faith and take the actions described on Section 4.1(f) of the Sellers Disclosure Letter.

4.2 Access to Information.

(a) Sellers shall, and shall cause the Acquired Companies to, during ordinary business hours and upon reasonable advance written notice (i) give Purchaser and its Representatives reasonable access to the personnel, assets, facilities and books and records of each of the Acquired Companies and (ii) permit Purchaser and its Representatives to make such reasonable inspections thereof as Purchaser may reasonably request; provided, however, that (A) any such inspection shall be conducted in such a manner as not to materially interfere with the operations of the Sellers, the applicable Acquired Company or any other member of the Seller Group, and (B) neither Sellers nor an Acquired Company

shall be required to take any action which would constitute or result in a waiver of its attorney-client privilege or violate any Contract or applicable Law; provided, further, that if any event set forth in clauses (A) and (B) in the foregoing proviso would be reasonably likely to occur, the Sellers shall collaborate with Purchaser in good faith to make alternative arrangements to allow for such inspection in a manner that does not result in such event. Purchaser shall indemnify and hold harmless Sellers from and against any Losses incurred by Sellers, their Affiliates or its or their Representatives to the extent resulting from any action of Purchaser or its Representatives while present on any premises to which Purchaser is granted access hereunder. Notwithstanding anything in this Section 4.2(a) to the contrary, (x) Purchaser shall not have access to personnel records if such access could, in the applicable Seller's good-faith judgment, violate applicable Law, including the Health Insurance Portability and Accountability Act of 1996, and (y) any inspection relating to environmental matters by or on behalf of Purchaser shall be strictly limited to visual inspections and site visits commonly included in the scope of "Phase 1" level environmental inspections, and Purchaser shall not have the right to collect any air, soil, surface water or ground water samples or perform any invasive or destructive air sampling on, under, at or from any of the Real Property.

(b) Unless otherwise provided in the Transition Services Agreement, each Seller shall deliver to Purchaser or an Acquired Company the books and records of each Acquired Company in the possession or control of such Seller or any of its Affiliates (and not in the possession of an Acquired Company) as promptly as practicable following the Closing Date (it being agreed that such Seller may retain a copy thereof, at such Seller's sole cost and expense, subject to its confidentiality obligations in accordance with Section 4.3). For a period of seven (7) years after the Closing Date, each Party and its Representatives shall have reasonable access to all of the books and records relating to the Acquired Companies in the possession of the other Parties, and to the employees of the other Parties, to the extent that such access may reasonably be required by such Party in connection with any Action and to the extent permitted under applicable Law. Such access shall be afforded by the applicable Party upon receipt of reasonable advance notice and during normal business hours and shall be conducted in such a manner as not to materially interfere with the operation of the business of any Party or its respective Affiliates. The Party exercising the right of access hereunder shall be solely responsible for any costs or expenses incurred by any Party in connection therewith. Each Party shall retain such books and records for a period of seven (7) years from the Closing Date.

4.3 Confidentiality.

(a) For a period of two (2) years following the Closing, Purchaser shall, and shall cause its Affiliates and Purchaser's Representatives to, hold all of Sellers' Confidential Information in strict confidence and not disclose any of Sellers' Confidential Information to any Person other than its Affiliates and its and their respective Representatives; provided, however, that upon the Closing, the provisions of (i) this Section 4.3 and (ii) the Confidentiality Agreement shall, in each case, expire with respect to any information to the extent related to the Acquired Companies ("Company Confidential Information"); provided, further, that nothing in this Agreement or the Confidentiality Agreement shall limit the disclosure by Purchaser or its Affiliates or its or their respective Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, Purchaser agrees to give Sellers prior written notice of such disclosure in sufficient time to permit Sellers to obtain a protective order should it so determine and Purchaser, its Affiliates and each of their respective Representatives shall cooperate with Sellers in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by Purchaser or its Affiliates or its or their respective Representatives in violation

of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Purchaser from a source other than Sellers, their Affiliates or their Representatives that such Purchaser reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of Purchaser, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by Purchaser without the aid, application or use of such information or documents or (vi) to the extent permitted in accordance with Section 4.7.

(b) If this Agreement is terminated pursuant to Section 8.1, the Confidentiality Agreement shall automatically be deemed to be amended and restated such that the provisions of the Confidentiality Agreement shall remain in full force and effect for a period of two (2) years after such termination, as if the Parties had never entered into this Agreement.

(c) If the Closing occurs, for a period of two (2) years following the Closing, each Seller will hold, and will cause its Affiliates and its and their Representatives to hold, in strict confidence and not disclose any information or documents relating to any Acquired Company and its business; provided, that nothing in this sentence shall limit the disclosure by any Seller or its Affiliates or its or their Representatives of any information or documents (i) to the extent required by Law, judicial process or the rules or policies of any applicable stock exchange, or requested by any Governmental Entity (provided, that if permitted by Law, such Seller agrees to give Purchaser prior written notice of such disclosure in sufficient time to permit Purchaser to obtain a protective order should it so determine and such Seller, its Affiliates and each of their respective Representatives shall cooperate with Purchaser in such effort), (ii) in any Claim brought by a Party in pursuit of its rights or in the exercise of its remedies under this Agreement, (iii) to the extent that such documents or information can be shown to have come within the public domain other than as a result of a disclosure by any Seller or its Affiliates or its or their respective Representatives in violation of this Agreement, (iv) to the extent that such documents or information can be shown to have become available to Sellers following Closing from a source other than Purchaser, its Affiliates or its or their Representatives that such Seller reasonably believes is not prohibited from disclosing such information by a legal, contractual or fiduciary obligation (provided, that such documents or information was not in the possession of any Seller, its Affiliates or its or their respective Representatives prior to the Closing), (v) developed or derived independently by such Seller without the aid, application or use of such information or documents or (vi) to any Tax authorities or Tax advisors to the extent such information or documents relate to the Seller Affiliated Tax Group.

4.4 Further Assurances. Subject to the terms and conditions of this Agreement, at any time or from time to time after the Closing, Sellers and Purchaser shall, and shall cause their respective Affiliates to, execute and deliver such other documents and instruments, provide such materials and information and take such other actions as may be reasonably requested by the requesting Party as necessary, proper or advisable, to the extent permitted by Law, to fulfill their obligations under this Agreement any Ancillary Agreement and to cause the Sale and other transactions contemplated hereby and thereby (including those contemplated under the Business Separation Plan) to occur.

4.5 Required Actions.

(a) Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to (i) submit to the KPSC and the WVPSC all required petitions, declarations and filings within sixty (60) days following the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (ii) file with the United States Federal Trade Commission and the United States Department of Justice the Notification and Report Form under the HSR Act required in

connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby within, unless otherwise agreed in writing by Sellers and Purchaser, sixty (60) days of the Effective Date, and as promptly as practicable supply additional information, if any, requested in connection herewith pursuant to the HSR Act, (iii) submit to FERC all filings necessary and required under the FPA pursuant to Section 203 of the FPA within sixty (60) days of the Effective Date in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby, (iv) file a joint voluntary notice or declaration in respect of the transactions contemplated by this Agreement pursuant to the DPA within thirty (30) days of the Effective Date, and, after submission of the declaration, if (x) pursuant to 31 C.F.R. 800.407(a)(1), CFIUS requests that the Sellers and Purchaser file a joint voluntary notice or (y) pursuant to 31 C.F.R. 801.407(a)(2), CFIUS informs the Sellers and Purchaser that CFIUS is not able to complete action on the basis of the declaration and, in each case, if the Purchaser in its sole discretion determines to file a joint voluntary notice, then as soon as practicable thereafter but no later than thirty (30) days following the date of such notification from CFIUS, file a joint voluntary notice pursuant to the DPA for the purpose of receiving CFIUS Clearance as soon as practicable, (v) negotiate, prepare and file as promptly as reasonably practicable all other necessary applications, notices, petitions, and filings and execute all agreements and documents, to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby (including with respect to the Required Regulatory Approvals and the Mitchell Plant Approvals), and (vi) obtain the consents, approvals, and authorizations of all Governmental Entities to the extent required by Law in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated by this Agreement (including the Required Regulatory Approvals and the Mitchell Plant Approvals). Each Party shall, and shall cause its Affiliates to, consult and cooperate with the other Parties as to the appropriate time of all such filings and notifications, furnish to the other Parties such necessary information and reasonable assistance in connection with the preparation of such filings, and respond promptly to any requests for additional information made in connection therewith by any Governmental Entity. To the extent permitted under applicable Law, each of Sellers and Purchaser shall have the right to review in advance all characterizations of the information relating to it or to the transactions contemplated by this Agreement which appear in any filing made by the other Parties or any of their Affiliates in connection with the transactions contemplated hereby.

(b) Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, in the preparation and making of any applications and filings (including the content, terms and conditions of such applications and filings) with any Governmental Entity, the resolution of any investigation or other inquiry of any Governmental Entity, the process for obtaining any consents, registrations, approvals, permits and authorizations of any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), and the making or discussing of any and all proposals relating to any regulatory commitments of Purchaser, Sellers, their respective Affiliates or business, or with any Governmental Entity, its staff, intervenors or customers, in each case, in connection with the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby. Purchaser and Sellers, acting reasonably and in good faith, shall coordinate, and Sellers shall cause the Acquired Companies to coordinate, with respect to the scheduling and conduct of all meetings with Governmental Entities in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents); provided, however, to the fullest extent practicable and permitted by Law, in connection with any communications, meetings, or other contacts, oral or written, with any Governmental Entity in connection with the transactions contemplated by this Agreement (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents), each of Sellers and Purchaser shall (and shall cause its Affiliates to):

(i) inform the other Parties in advance of any such communication, meeting, or other contact which such Party or any of its Affiliates proposes or intends to make, including the subject matter, contents, intended agenda, and other aspects of any of the foregoing; (ii) consult and cooperate with the other Parties, and take into account the comments of the other Parties in connection with any of the matters covered by Section 4.5(a); (iii) permit Representatives of the other Parties to participate in any such communications, meetings, or other contacts; (iv) notify the other Parties of any oral communications with any Governmental Entity relating to any of the foregoing; and (v) provide the other Parties with copies of all written communications with any Governmental Entity relating to any of the foregoing; provided, however, that any materials exchanged in connection with this Section 4.5 may be (x) redacted or withheld as necessary to address reasonable privilege or confidentiality concerns (including with respect to other businesses of Purchaser or Sellers or, in each case, their Affiliates), and to remove references concerning the valuation or other competitively sensitive material or (y) provided solely to the outside legal counsel of the other Party, to the extent any Party deems this to be advisable and necessary. Nothing in this Section 4.5 shall require Sellers to expend or relinquish financial resources (including any portion of the sale proceeds of the transactions contemplated herein) to obtain any consent, approval or termination of a waiting period contemplated by this Section 4.5. Purchaser shall take the lead on strategy with respect to the Parties' efforts to obtain any necessary or advisable consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals of any Governmental Entity or under any Laws (including the Required Regulatory Approvals and the Additional Regulatory Filings and Consents), other than the Mitchell Plant Approvals, as contemplated hereby after considering in good faith all reasonable comments and advice of Sellers (and their counsel), and Sellers shall reasonably cooperate with Purchaser in connection therewith, including taking (and causing its Affiliates, including the Acquired Companies, to take) any actions reasonably requested by Purchaser consistent with this Section 4.5; provided, that, strategy and control with respect to the Mitchell Plant Approvals shall be governed by Section 4.20(d). Subject to and without limiting Section 4.1, Sellers shall take the lead on strategy with respect to any Rate Proceedings after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. With respect to the CFIUS submissions, Purchaser shall coordinate those submissions, but Sellers shall exclusively control information submitted with respect to Sellers, and the Parties shall agree upon any language or representations relating to the transactions contemplated by this Agreement before such information is submitted.

(c) Without limiting the foregoing, Purchaser shall not, and shall cause its Affiliates not to, take any action, including (i) acquiring or agreeing to acquire any asset, property, business or Person (by way of merger, consolidation, share exchange, investment, or other business combination, asset, stock or equity purchase, or otherwise) from any Person (other than from Sellers or their Affiliates) or agree to, solicit, offer, propose or recommend any of the foregoing, (ii) making any filing or (iii) any other action, that, in each case, could reasonably be expected to adversely affect in any material respect obtaining or making, or the timing of obtaining or making, any consent or approval or expiration or termination of a waiting period contemplated by this Section 4.5. In furtherance of and without limiting any of Purchaser's covenants and agreements under this Section 4.5, Purchaser shall, and shall cause its Affiliates to use reasonable best efforts to take, or cause to be taken, any and all steps and to make, or cause to be made, any and all undertakings necessary to avoid or eliminate each and every impediment asserted by any Governmental Entity in connection with obtaining the Required Regulatory Approvals and the Mitchell Plant Approvals, in each case, so as to enable the Closing to occur as promptly as practicable, including (A) agreeing to conditions imposed by, or taking any action required by, any Governmental Entity, (B) defending through litigation on the merits any claim asserted in court by any party in order to avoid entry of, or to have vacated or terminated, any Order (whether temporary, preliminary or permanent) that would prevent the Closing from occurring prior to the Outside Date; provided, however, that such litigation in no way limits the obligation of Purchaser to use its reasonable

best efforts, and to take any and all steps necessary, to eliminate each and every impediment and obtain all clearances, consents, approvals (including the Required Regulatory Approvals and the Mitchell Plant Approvals) and waivers under any antitrust, competition or trade regulation Law, the rules and regulations promulgated by the KPSC, the WVPSC, FERC or other Governmental Entity or any other applicable requirement of Law that is asserted by any Governmental Entity or any other party so as to enable the Parties hereto to promptly close the transactions contemplated hereby, and Sellers shall use their reasonable best efforts to support Purchaser in connection therewith, (C) proposing, negotiating, committing to and effecting, by consent decree, hold separate order or otherwise, (x) the sale, divestiture, licensing or disposition of any assets or businesses of Purchaser or its Affiliates or the Acquired Companies and entering into customary ancillary agreements relating to such sale, divestiture, licensing or disposition, or (y) the termination, relinquishment, modification, or waiver of existing relationships, ventures, contractual rights, obligations or other arrangements of Purchaser or its subsidiaries, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other Order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement, (D) entering into any relationships, ventures, contractual rights, obligations or other such arrangements, as necessary in order to effect the dissolution of any injunction, temporary restraining order or other order in any suit or proceeding, which would otherwise have the effect of preventing the consummation of the transactions contemplated by this Agreement prior to the date of termination of this Agreement and (E) agreeing to take any other action as may be required by a Governmental Entity in order to effect each of the following: (1) obtaining all Required Regulatory Approvals and Mitchell Plant Approvals as soon as reasonably practicable and in any event before the Outside Date, (2) avoiding the entry of, or having vacated, lifted, dissolved, reversed or overturned, any Order, whether temporary, preliminary or permanent, that is in effect that prohibits, prevents or restricts consummation of, or impedes, interferes with or delays, the Closing and (3) effecting the expiration or termination of any waiting period, which would otherwise have the effect of preventing, prohibiting or restricting consummation of the Closing or impeding, interfering with or delaying the Closing.

(d) Notwithstanding the foregoing or anything else in this Agreement to the contrary, Purchaser shall not be required to, in connection with obtaining the Required Regulatory Approvals, the Mitchell Plant Approvals or the Additional Regulatory Filings and Consents, take any action (including any of the actions listed in Section 4.5(c)) or agree to or accept any orders, actions, consents, clearances, non-objections, expiration or terminations of any waiting periods, authorizations or approvals or conditions of any Governmental Entity containing terms, conditions, liabilities, obligations, commitments or sanctions that would individually or in the aggregate reasonably be expected to have a material adverse effect on the Acquired Companies, taken as a whole (a "Burdensome Condition"); provided, that neither Sellers nor Purchaser shall be required to, and neither Sellers nor Purchaser shall, in connection with obtaining the Required Regulatory Approvals or the Additional Regulatory Filings and Consents, consent to the taking of any action or the imposition of any terms, conditions, limitations or standards of service the effectiveness or consummation of which is not conditional upon the occurrence of the Closing. Without the prior written consent of Purchaser (which consent, in connection with obtaining the Mitchell Plant Approvals, shall not be unreasonably withheld, conditioned or delayed), Sellers shall not, and shall not permit any of the Acquired Companies, in connection with obtaining any actions or non-actions, clearances, approvals, consents, waivers, registrations, permits, authorizations and other confirmations from any Governmental Entity (including the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents) in connection with this Agreement or the transactions contemplated herein, offer or agree to any undertaking, term, condition, liability, obligation, commitment or sanction that would reasonably be expected to be material and adverse to Purchaser's ability to obtain the Required Regulatory Approvals, the Mitchell Plant Approvals and the Additional Regulatory Filings and Consents on substantially the

terms that Purchaser reasonably expects; provided, that the foregoing limitations on Sellers apply solely to actions taken by Sellers and shall not in any manner impact the obligations of Purchaser pursuant to the remaining provisions of this Section 4.5, including Purchaser's obligation to agree to any such undertaking, term, condition, liability, obligation, commitment or sanction in connection with the Required Regulatory Approvals and the Mitchell Plant Approvals to the extent required under this Section 4.5, subject in all instances to the limitation provided in the first sentence of this Section 4.5(d).

(e) In furtherance, and not in limitation, of Sections 4.5(a), 4.5(b) and 4.5(c), Sellers and Purchaser shall, and shall cause their respective Affiliates to, cooperate with each other and use reasonable best efforts to cause FERC to accept for filing pursuant to Section 205 of the FPA ("Section 205") the items listed as subject to Section 205 on Section 2.4(a) of the Sellers Disclosure Schedule.

(f) Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates are subject to the jurisdiction and regulatory authority of the KPSC, WVPSC and FERC, as applicable, and that the Acquired Companies' and/or their Affiliates' business operations that are subject to the jurisdictions of the KPSC, WVPSC and FERC are ongoing and are contemplated to continue to be ongoing before and after the Effective Date and regardless of whether or not the Closing occurs. Notwithstanding anything to the contrary in this Section 4.5, nothing in this Section 4.5 is intended to, or has the meaning and purpose of, preventing in any way or degree the Acquired Companies' or their Affiliates' normal and ordinary practices and abilities to meet with or have conversations with the KPSC, WVPSC and FERC, as applicable, concerning the Acquired Companies' or their Affiliates' ongoing operations that are subject to the jurisdiction of the KPSC, WVPSC or FERC, respectively, separate and apart from the Required Regulatory Approvals, Mitchell Plant Approvals or the Additional Regulatory Filings and Consents. Without limiting the other provisions of this Section 4.5, Purchaser hereby recognizes and acknowledges that the Acquired Companies and/or their Affiliates, in the normal and ordinary course and scope of their meetings and conversations with the KPSC, WVPSC, and FERC concerning the Acquired Companies' and/or their Affiliates' ongoing operations, may be asked to discuss the transactions contemplated by this Agreement (including as to the potential effects of such transactions or the transactions contemplated by the Mitchell Plant Approvals on the ongoing operations under discussion) without Purchaser being present or participating in such discussions. In the event of such inquiries by the KPSC, WVPSC or FERC, without Purchaser's participation in such discussions, Sellers promptly thereafter shall reasonably apprise Purchaser of such inquiries and related discussions concerning the transactions under this Agreement or the Mitchell Plant Approvals and coordinate on an appropriate response to the extent applicable. Sellers agree to provide Purchaser with timely updates as to the status of, and issues raised in, any such proceedings and consider and reflect any reasonable comments by Purchaser in responding to any material inquiry with respect thereto.

4.6 Additional Regulatory Filings and Consents. Sellers shall, and shall cause their Affiliates (including the Acquired Companies) to, reasonably cooperate with Purchaser to make or obtain the Additional Regulatory Filings and Consents, respectively, or, if applicable, any consents required from third parties in connection with the consummation of the transactions contemplated by this Agreement under Material Contracts or Permits at or prior to the Closing. Subject to such cooperation but otherwise notwithstanding anything to the contrary contained herein, neither Sellers nor Purchaser, nor any of their respective Affiliates, shall have any obligation to make any payments or incur any material Liability to obtain any consents of third parties contemplated by this Section 4.6. For the purposes of this Section 4.6, Sellers' "reasonable cooperation" shall not include payment of any consideration (monetary or otherwise), the reduction of amounts owed to any such Seller in connection with obtaining any consent

required by this Agreement or the concession or provision of any right to, or the amendment or modification in any manner materially adverse to a Seller.

4.7 Public Announcements. Purchaser and Sellers shall consult with each other before issuing, and give each other a reasonable opportunity to review and comment upon, any press release or other written public statements with respect to this Agreement or any of the transactions contemplated hereby, including the Sale, and shall not issue any such press release or make any such written public statement prior to such consultation, except (and notwithstanding anything in the Confidentiality Agreement to the contrary) (a) as such party reasonably concludes (after consultation with outside counsel) to be required by applicable Law (including securities Laws, rules or regulations), court process or by obligations pursuant to any listing agreement with, or other applicable rules or regulations of, any national securities exchange or national securities quotation system (including the Toronto Stock Exchange), or (b) for the avoidance of doubt, for any disclosure by a Party or any of its Affiliates to its and their Representatives. For the avoidance of doubt, nothing contained in this Agreement shall limit a Party's (or its respective Affiliates') rights to disclose the existence of this Agreement and the general nature of the transaction described herein on any earnings call or in similar discussions with financial media or analysts, stockholders and other members of the investment community, provided that such disclosures are consistent in all material respects with disclosures previously made pursuant to this Section 4.7.

4.8 Intercompany Arrangements, Intercompany Accounts and Shared Contracts.

(a) Subject to Section 4.9, Sellers shall, and shall cause their Affiliates to, subject to the receipt of applicable regulatory authorizations set forth on Section 4.8(a)(i) of the Sellers Disclosure Letter, (i) sever and terminate all transactions and Contracts (other than those existing or new Contracts identified on Section 4.8(a)(ii) of the Sellers Disclosure Letter) between any of the Acquired Companies, on the one hand, and each Seller and/or any of its Affiliates (other than the Acquired Companies), on the other hand (collectively, the "Intercompany Arrangements") effective on or prior to the Closing and with no further Liabilities or obligations to the Acquired Companies or any of their Affiliates from and after the Closing, and (ii) provide any consents or other documentation reasonably required from Sellers or any of their Affiliates to effect the severance or termination of such Intercompany Arrangements. To the extent Sellers are unable to obtain any such applicable regulatory authorizations on or prior to the Closing with respect to any such Contract, the Closing shall not be affected, such Contract shall remain in full force and effect and the Parties shall use reasonable best efforts to obtain any applicable regulatory authorizations with respect to such Contract as soon as practicable after the Closing. Sellers actions with respect to Intercompany Arrangements set forth on Section 4.8(a)(ii) of the Sellers Disclosure Letter shall be as specified for those Intercompany Arrangements identified therein.

(b) In furtherance of the actions specified in Section 4.8(a) of the Sellers Disclosure Letter and as described in Section 4.8(b) of the Sellers Disclosure Letter, on and after the Closing, Purchaser shall cause (i) Kentucky Power to maintain itself as a "Load Serving Entity" under the PJM Market Rules until the completion of all remaining "Planning Periods" (as defined in the PJM Market Rules) for which Kentucky Power has committed to jointly participate in a "Fixed Resource Requirement Alternative" (as defined in the PJM Market Rules) with Affiliates of AEP and (ii) for the period specified in clause (i), Kentucky Power's transmission assets to remain included in the "AEP Zone" in accordance with Attachment H-14 of the PJM Tariff.

(c) Except as expressly contemplated in Section 4.16 and Section 4.8(a), Sellers shall be required to terminate, cancel, settle or otherwise eliminate any outstanding amounts or balances due or owing by or to the Acquired Companies, on the one hand, and Sellers or any of their Affiliates

(other than the Acquired Companies), on the other hand, and any amounts or balances not terminated in accordance with the exception above and outstanding as of the Closing shall be settled following the Closing in the ordinary course of business consistent with the manner and timing in which such intercompany accounts and balances were paid or settled prior to the Closing, and such outstanding amounts or balances shall be reflected in the calculation of Closing Cash, Closing Indebtedness and Net Working Capital, as applicable. To the extent such amounts or balances remain outstanding for more than ninety (90) days after the Closing, the Parties shall cooperate to enter into one or more arrangements to apply reasonable arms' length third-party terms (including payment terms and timing) to terminate, cancel, settle or otherwise eliminate such amounts or balances.

(d) During the Interim Period and for up to nine (9) months following the Closing, upon the written request of Purchaser, Sellers and Purchaser shall, and shall cause the Acquired Companies and their respective Affiliates to, use reasonable best efforts to replace the Acquired Companies' interest in any Shared Contract with a stand-alone Contract for the Acquired Companies on comparable terms and conditions (taking into account, among other things, the relative sizes of such companies and their respective purchasing power) as applied to Sellers and their Affiliates and the business of the Acquired Companies, respectively, under the Shared Contract prior to Closing. In furtherance of the foregoing covenant, (i) Sellers shall provide Purchaser upon request with a list of vendors that are parties to Shared Contracts, (ii) at Purchaser's request, Sellers shall use reasonable best efforts to assist Purchaser with entering into replacement Contracts with any such vendors and (iii) Sellers and Purchaser shall use reasonable best efforts to cooperate to execute and deliver commercially reasonable instruments and documents that are reasonably necessary to carry out the intent of providing the Acquired Companies with the benefits and burdens associated with such Shared Contracts to the extent relating to the business of the Acquired Companies, while simultaneously retaining the benefits and burdens of the Shared Contract for Sellers and their Affiliates relating to their businesses other than those of the Acquired Companies. For purposes of this Section 4.8(d), reasonable best efforts shall not require the payment of any consideration (monetary or otherwise) to, or the concession or provision of any material right to, or the amendment or modification in any manner materially adverse to Purchaser or its Affiliates (including the Acquired Companies for these purposes) or Sellers and its Affiliates of any Shared Contract, and in no event shall Sellers or any of their Affiliates or Purchaser or any of its Affiliates have any obligation to any third party with respect to any Shared Contract other than as described in this Section 4.8(d) or otherwise in this Agreement or any Ancillary Agreements.

4.9 Support Obligations. Purchaser shall use its reasonable best efforts to cause itself, one of its Affiliates or, in connection with the Closing and to be effective after the Closing, an Acquired Company, to be substituted in all respects for Sellers and any of their Affiliates, and for Sellers and their Affiliates to be unconditionally released, effective as of the Closing, in respect of, or otherwise terminate (and cause Sellers and their Affiliates to be unconditionally released in respect of), all obligations of Sellers and any of their Affiliates under each of the guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations of such Persons related to an Acquired Company that are set forth on Section 4.9 of the Sellers Disclosure Letter (collectively, the "Substituted Support Obligations"). The Substituted Support Obligations shall include any and all new or replacement credit support obligations or any modification or increase in the Substituted Support Obligations set forth on Section 4.9 of the Sellers Disclosure Letter and all of Purchaser's obligations under this Section 4.9 shall apply with respect thereto, provided that, without Purchaser's prior written consent, neither Seller nor any of its Affiliates may enter into or execute any new credit support obligation if as a result of such new credit support obligation relating to the business of the Acquired Companies, the aggregate amount of Substituted Support Obligations as of the Closing would be increased by more than $25,000,000 as compared to the amount of Substituted Support Obligations as of the date hereof. For any of the guarantees, indemnities, letters of credit, letters of comfort, commitments,

understandings, agreements and other obligations of Sellers and any of their Affiliates related to an Acquired Company for which Purchaser or the Acquired Company, as applicable, is not substituted in all respects for Sellers and their Affiliates (or for which Sellers and their Affiliates are not unconditionally released) effective as of the Closing and that cannot otherwise be terminated effective as of the Closing without causing an adverse effect on an Acquired Company (with Sellers and their Affiliates to be unconditionally released in respect thereof), (a) Sellers shall, or shall cause their applicable Affiliates to, keep in place such Substituted Support Obligations ("Continuing Support Obligations"), (b) Purchaser shall continue to use its reasonable best efforts and shall cause each Acquired Company to use its reasonable best efforts to effect such substitution or termination and unconditional release with respect to the Continuing Support Obligations as promptly as practical after the Closing and (c) Purchaser shall reimburse Sellers for all documented amounts paid or incurred by Sellers or their Affiliates (other than the Acquired Companies) to the extent any guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations are called upon and Sellers or any such Affiliates make any payment or are obligated to reimburse the issuing party thereof. In addition, commencing on the date that is six months after the Closing Date, on the last Business Day of each three-month period ending thereafter, until such time as no Continuing Support Obligations remain outstanding, Purchaser shall pay Sellers or their designees a fee in respect of each Continuing Support Obligation equal to the amount of customary and market fees Sellers or its applicable Affiliate would have reasonably incurred if it posted a letter of credit in respect of the amounts covered by such Continuing Support Obligation for such three-month period (or, with respect to any Continuing Support Obligation outstanding for a portion, but not all, of such three-month period, for such portion of such three-month period). Without limiting the foregoing, neither Purchaser nor any of its Affiliates (including after the Closing the Acquired Companies) shall extend or renew any Contract containing or underlying a Continuing Support Obligation unless, prior to or concurrently with such extension or renewal, Purchaser or one of its Affiliates (including the Acquired Companies) is substituted in all respects for Sellers and any of their Affiliates under such Continuing Support Obligation. For purposes of this Section 4.9, "reasonable best efforts" shall include offering to provide to the applicable beneficiary of a Substituted Support Obligation, and providing such beneficiary, such replacement guarantees, indemnities, letters of credit, letters of comfort, commitments, understandings, agreements and other obligations as are substantially similar in form and substance to the Substituted Support Obligations.

4.10 Usage of Seller Marks.

(a) As soon as reasonably practicable following the Closing, and in any case no later than three (3) Business Days following the Closing Date, Purchaser shall cause each Acquired Company to cease to hold itself out as having any affiliation with any Seller or any of its Affiliates. Purchaser shall, and shall cause its Affiliates, the Acquired Companies and their respective Representatives to, within one hundred twenty (120) days after the Closing Date cease using, remove, cover or conceal any name, logo, symbol, trademark, trade name, service mark, or designs incorporating: the words or acronyms "AEP", "American Electric Power" or "Ohio Power", the phrases "Boundless Energy" or "America's Energy Partner", the AEP parallelogram logo or the AEP incomplete parallelogram logo (collectively, the "Seller Marks"), from any public-facing properties or assets in the possession or control of the Acquired Companies and, within ninety (90) days after the Closing Date, dispose of any unused stationery and literature containing the Seller Marks. Any use by Purchaser of any of the Seller Marks as permitted in this Section 4.10 is subject to Purchaser's compliance with the quality control requirements and guidelines as provided to Purchaser in advance in writing, and which are in effect for the Seller Marks as of the Closing Date. Purchaser shall not use the Seller Marks in a manner that would reasonably be expected to reflect negatively on such Seller Mark or on any Seller or its Affiliates.

(b) Each Seller, on behalf of itself and its Affiliates as of the Closing Date (other than the Acquired Companies) (the "Seller Covenant Parties"), hereby covenants to Purchaser that none of the Seller Covenant Parties shall bring any Action against Purchaser or its subsidiaries (including the Acquired Companies, the "Purchaser Covenant Parties") anywhere in the world that alleges that their current and future operation of the business of the Acquired Companies infringes any Intellectual Property (other than Trademarks) ("Inventions") that in each case are (i) owned by the Seller Covenant Parties as of the Closing Date and (ii) were used in the business of the Acquired Companies as of the Closing Date or at any time during the twelve (12) month period prior to the Closing Date. The foregoing covenant extends to the contractors, distributors, retailers and end-users of the Purchaser Covenant Parties with respect to the business of the Purchaser Covenant Parties, as applicable, but not with respect to other products or services of such third parties. The Parties intend and agree that, for purposes of Section 365(n) of the U.S. Bankruptcy Code (and any amendment thereto) and any equivalent Law in any foreign jurisdiction, the foregoing covenant will be treated as a license to intellectual property (as defined in Section 101(35A) of the U.S. Bankruptcy Code). The foregoing covenant is intended to run with the Inventions subject to such covenant. Any Seller Covenant Party may and must transfer its covenant granted to the Purchaser Covenant Parties, in whole or in part, to the successor or acquirer of any Inventions subject thereto, and such successor or acquirer shall assume its obligations in writing or by operation of law. Further, any such successor or acquirer is deemed automatically bound by such covenant, regardless of whether such successor or acquirer executes such written assumption. Each Purchaser Covenant Party may transfer the covenant granted by the Seller Covenant Parties, in whole or in part, in connection with the sale of any business to which the covenant relates, provided that the covenant will not extend to the acquirer's other businesses.

4.11 Release.

(a) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, each Seller, on behalf of itself and each of its Affiliates and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges Purchaser and each of its respective Affiliates, and each of their respective heirs, executors, administrators, successors and assigns (such released Persons, the "Releasees"), of and from all debts, demands, Actions, causes of action, suits, accounts, covenants, Contracts, damages, claims and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or related to the Acquired Companies or their businesses prior to the Closing Date. Each Seller shall not make, and each Seller shall not permit any of its Affiliates or their respective Representatives to make, any claim or demand, or commence any Action asserting any claim or demand, including any claim of contribution or any indemnification, against any of Purchaser's or its Affiliates' or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(b) Effective as of the Closing and except as otherwise expressly set forth in this Agreement (including Section 4.11(c)) or in any of the Ancillary Agreements or for Fraud, Purchaser, on behalf of themselves and each of their respective Affiliates (including the Acquired Companies following the Closing) and each of their respective successors and assigns, hereby irrevocably, unconditionally and completely waives and releases and forever discharges each Seller and each of their respective Affiliates, and each of their respective Releasees, of and from all debts, demands, Actions, causes of action, accounts, covenants, Contracts, damages and other Liabilities whatsoever of every name and nature, both in law and in equity, arising out of or in connection with any breach by Sellers or any director or officer of an Acquired Company of any fiduciary duty in their capacity as an equity holder, director or officer of such Acquired Company prior to the Closing Date. Purchaser shall not make or permit any of its Affiliates or Representatives to make, any claim or demand, or commence any Action asserting any claim

or demand, including any claim of contribution or any indemnification, against any of Sellers or their Affiliates or any of their Releasees with respect to any Liabilities or other matters released pursuant to this Section 4.11.

(c) Notwithstanding the foregoing, Section 4.11(a) and Section 4.11(b) shall not constitute a release from, waiver of, or otherwise apply to the terms of (i) this Agreement, or any Ancillary Agreement, the Mitchell Plant Ownership Agreement, the Mitchell Plant O&M Agreement or any Liability or Contract expressly contemplated by this Agreement or any Ancillary Agreement to be in effect after the Closing, or any enforcement thereof or (ii) any other Contract, arrangement or other matter arising between Purchaser and its Affiliates, on the one hand, and Sellers and their Affiliates, on the other hand, in the ordinary course of their respective businesses.

4.12 Indemnification of Directors and Officers.

(a) For a period of six (6) years commencing on the Closing Date, Purchaser shall, and shall cause the Acquired Companies to: (i) indemnify, defend and hold harmless, all of the past and present directors, officers and employees of each Acquired Company (in all of their capacities) (collectively, the "D&O Indemnified Parties") against any and all Losses incurred in respect of acts or omissions occurring at or prior to the Closing to the fullest extent permitted by Law or provided under such Acquired Company's Organizational Documents in effect on the Effective Date, (ii) without limitation of clause (i), to the fullest extent permitted by applicable Law, cause to be maintained in effect the provisions regarding elimination of liability of directors, and indemnification of and advancement of expenses to directors, officers and employees contained in the Organizational Documents of each Acquired Company that are no less advantageous to the intended beneficiaries than the corresponding provisions in such Organizational Documents in existence on the Effective Date and (iii) not settle, compromise or consent to the entry of any judgment in any proceeding or threatened proceeding (and in which indemnification could be sought by a D&O Indemnified Party hereunder), unless such settlement, compromise or consent (A) includes an unconditional release of such D&O Indemnified Party from all liability arising out of such proceeding or (B) provides solely for monetary damages to be paid by Purchaser or an Acquired Company pursuant to this Section 4.12(a), or such D&O Indemnified Party otherwise consents in writing to the entry of such judgment, and cooperates in the defense of such proceeding or threatened proceeding.

(b) The obligations of Purchaser and the Acquired Companies under this Section 4.12 shall not be terminated, amended or modified in any manner so as to adversely affect any D&O Indemnified Party (including their successors, heirs and legal Representatives) to whom this Section 4.12 applies without the written consent of such affected D&O Indemnified Party (it being expressly agreed that the D&O Indemnified Parties to whom this Section 4.12 applies shall be third-party beneficiaries of this Section 4.12, and this Section 4.12 shall be enforceable by such D&O Indemnified Parties and their respective successors, heirs and legal Representatives and shall be binding on all successors and assigns of Purchaser and the Acquired Companies).

(c) If Purchaser or, following the Closing, an Acquired Company, or any of their respective successors or assigns (i) shall consolidate with or merge into any other corporation or entity and shall not be the continuing or surviving corporation or entity of such consolidation or merger or (ii) shall transfer all or substantially all of its properties and assets to any Person, then, and in each such case, proper provisions shall be made so that the successors and assigns of Purchaser, the Acquired Company or any of their respective successors or assigns, as the case may be, shall assume all of the obligations set forth in this Section 4.12.

(d) The rights of the D&O Indemnified Parties under this Section 4.12 shall be in addition to any rights such D&O Indemnified Parties may have under the Organizational Documents of the Acquired Companies, or under any applicable contracts or Laws, and Purchaser shall, and shall cause the Acquired Companies to, honor and perform under all indemnification agreements entered into by the Acquired Companies that are set forth in Section 4.12 of the Seller Disclosure Letter.

4.13 NSR Consent Decree.

(a) Sellers and Purchaser shall use their respective reasonable best efforts to effect an amendment to the NSR Consent Decree as promptly as reasonably practicable after the Effective Date pursuant to paragraphs 192 and 193 of the NSR Consent Decree pursuant to which Purchaser shall assume all obligations under the NSR Consent Decree relating to the Mitchell Interest and Big Sandy, but without (i) allocating in any such amendment any emissions caps under the NSR Consent Decree for Mitchell and Big Sandy separate from the other applicable facilities of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree), or (ii) the release of Sellers and their applicable Affiliates (in their capacity as "Defendants" under the NSR Consent Decree) from joint and several liability with respect to any compliance obligations with respect to Mitchell and Big Sandy. As of the Closing, the Parties shall enter into the Compliance Agreement in the form set forth as Exhibit D.

(b) From and after the Closing, Purchaser shall be responsible for the surrender of any emissions allowances required by the NSR Consent Decree and Compliance Agreement with respect to the Mitchell Interest and Big Sandy in the portion of the calendar year immediately following the Closing and for any periods thereafter.

(c) During the Interim Period, (i) Purchaser and its Representatives shall have the right to consult with Sellers and their applicable Affiliates and, to the extent not prohibited by applicable Law, attend and participate in any substantive meetings, discussions, communications or negotiations with any of the "Plaintiffs" (as defined in the NSR Consent Decree) regarding any modification of or other substantive issue under the NSR Consent Decree with respect to the Mitchell Interest or Big Sandy and related obligations with respect thereto as contemplated under this Section 4.13, and (ii) Sellers shall provide Purchaser and its Representatives with a reasonable opportunity to comment in advance on any material written communication or offer to the Plaintiffs relating to such modification of or other substantive issue with respect to the NSR Consent Decree as contemplated under this Section 4.13 and Sellers shall reasonably consider Purchaser's comments in submitting such written communications or offers. For the avoidance of doubt, Purchaser shall have no consent right, or right to participate or be consulted, with respect to any amendment, modification or waiver or other obligation under the NSR Consent Decree unrelated to Mitchell or Big Sandy.

4.14 [Reserved].

4.15 R&W Policy; No Subrogation. Concurrently with execution of this Agreement, Purchaser may procure a customary representation and warranty insurance policy, in substantially the form delivered to Sellers prior to the execution of this Agreement with such changes thereto as may be agreed by Purchaser and the insurer(s) thereunder (consistent with this Section 4.15), issued to Purchaser in connection with this Agreement (the "R&W Policy") and with Purchaser as the named insured and covering the representations and warranties of Sellers under this Agreement. Any R&W Policy shall expressly provide that (a) the insurer under the R&W Policy has no subrogation rights, and will not pursue any claim, against Sellers or any of their respective Affiliates or Representatives, or any of their respective successors and assigns, except in connection with a claim based on Fraud, and (b) Purchaser is

not required to pursue remedies against Sellers or any of its respective Affiliates or Representatives, or any of their respective successors and assigns prior to or as a condition to making a claim under the R&W Policy. In furtherance, and not in limitation, of the foregoing, Purchaser shall not, and shall cause its Affiliates not to, grant any right of subrogation or otherwise amend, modify, terminate or waive any terms or conditions of any representation and warranty insurance policy, including the R&W Policy, in a manner that adversely affects a Seller or any of its respective Affiliates or Representatives, or any of their respective successors and assigns, without the prior written consent of Sellers (which may be withheld in their sole discretion). The premium and related costs of the R&W Policy, including any fees, costs, retentions or deductibles associated with the R&W Policy, shall be paid or otherwise borne by Purchaser.

4.16 Existing Debt Agreements; Senior Notes.

(a) Purchaser acknowledges that each of the Acquired Companies is party to the Amended and Restated Utility Money Pool Agreement dated as of December 9, 2004 by and among AEP and certain other affiliates (as amended, the "Utility Money Pool Agreement") pursuant to which, among other things, certain amounts have been, and will continue to be, advanced to the Acquired Companies by Sellers or their Affiliates. At the Closing, Purchaser shall provide the funds necessary to cause the Acquired Companies to repay in full all Closing Indebtedness (including principal, interest, fees, costs and expenses) owed by the Acquired Companies pursuant to the Utility Money Pool Agreement as a result of the removal of the Acquired Companies from the Utility Money Pool Agreement in accordance with Section 4.8(a); provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(b) Purchaser acknowledges that Kentucky TransCo has issued the TransCo Intercompany Notes to AEP TransCo. To the extent that all of the TransCo Intercompany Notes are not refinanced with indebtedness provided by unaffiliated third parties during the Interim Period, at the Closing Purchaser shall provide the funds necessary to cause Kentucky TransCo to redeem in full the portion of the Closing Indebtedness (including principal, interest, fees, costs and expenses) represented by the TransCo Intercompany Notes that are outstanding at the Closing; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time. Sellers will cause AEP TransCo to waive any restrictions on redemption prior to the stated maturity date of such TransCo Intercompany Notes.

(c) Purchaser hereby acknowledges that, pursuant to each of the Debt Agreements set forth on Section 4.16 of the Sellers Disclosure Letter, consummation of the transactions contemplated by this Agreement absent the timely receipt of an applicable consent would constitute an event of default by Kentucky Power under each agreement. Unless such consent with respect to such agreements have been obtained at or prior to the Closing, Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay all Closing Indebtedness (including principal, interest, costs, fees and expenses) that, as a result of the Closing, are required to be paid with respect to the Debt Agreements as and when such amounts become due and payable; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(d) Pursuant to the Senior Note Purchase Agreements, within five (5) Business Days (as defined in the Senior Note Purchase Agreements) after (i) the date hereof, Kentucky Power must (A) give notice that this Agreement has been executed to the holders of the Senior KPCo Notes and (B) apply to a Rating Agency for a review of the then applicable credit rating in respect of the Senior KPCo Notes; and (ii) the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof pursuant to the terms and conditions in the Senior Note Purchase Agreements. Purchaser hereby consents for all purposes under this Agreement to Sellers causing Kentucky Power to take any such action required to be taken prior to the Closing pursuant to the Senior Note Purchase Agreements.

(e) Purchaser hereby acknowledges that (i) within five (5) Business Days (as defined in the Senior Note Purchase Agreements) of the occurrence of any Change in Control Prepayment Event, Kentucky Power must offer to prepay all of the Senior KPCo Notes held by the holders thereof and (ii) the purchase price for the Senior KPCo Notes payable to holders thereof which have accepted such prepayment in accordance with the Senior Note Purchase Agreements (the "Accepting Noteholders") is 100% of the principal amount of such Senior KPCo Notes, together with accrued and unpaid interest thereon to the date of prepayment (the "Senior Note Purchase Price"). Purchaser shall provide the funds to Kentucky Power that are necessary to cause Kentucky Power to pay the Senior Note Purchase Price in connection with a Change in Control Prepayment Event occurring after the consummation of the transactions contemplated by this Agreement as and when such amounts become due and payable pursuant to the Senior Note Purchase Agreements; provided, that, for the avoidance of doubt, the amount of Estimated Closing Indebtedness and Final Closing Indebtedness shall not be reduced by the amount of such funding by Purchaser necessary to cause the repayment in full of such Indebtedness, which shall be deemed to have taken place on the Closing Date after the Reference Time.

(f) Notwithstanding anything to the contrary in this Section 4.16, the receipt by Purchaser of any waivers or consents with respect to the Debt Agreements or the absence of the occurrence of a Change in Control Prepayment Event with respect to the Senior KPCo Notes shall not constitute conditions to the obligation of Purchaser to consummate the Closing.

4.17 Business Separation Plan. During the Interim Period, in furtherance of the transactions contemplated by this Agreement, the Parties shall, and shall cause their Affiliates to, cooperate in good faith and use their reasonable best efforts to develop, and, to the extent reasonably practicable, implement prior to the Closing, a mutually acceptable plan for the separation of certain assets, properties and contractual arrangements that are intertwined with the businesses of the Acquired Companies and those of the Sellers and certain of their Affiliates (other than the Acquired Companies) (the "Business Separation Plan"). The Business Separation Plan shall address the matters set forth on Section 4.17 of the Sellers Disclosure Letter as well as any other matters mutually agreed to by the Parties. All such activities subject to this Section 4.17 shall be in compliance with applicable Law. For the avoidance of doubt, each Party shall pay its own legal and other costs and expenses incurred in connection with the activities contemplated by this Section 4.17, except to the extent provided otherwise in Section 4.17 of the Sellers Disclosure Letter. Without limiting the foregoing, during the Interim Period, the Parties shall cooperate in good faith and use their reasonable best efforts to begin to readily transition the Business to Purchaser such that Purchaser and the Acquired Companies can operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, including so as to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement. The Parties shall negotiate in good faith during the Interim Period to agree on any appropriate modifications to such services (including the duration thereof, but in no event exceeding 24 months after the Closing Date, and in all cases subject to the provisions of the

Transition Services Agreement relating to costs and expenses) to reflect the foregoing or as may otherwise be necessary or advisable to enable Purchaser and the Acquired Companies to operate the Business on a stand-alone basis in the ordinary course in accordance with Good Utility Practices without disruption or interruption, but taking into account the Parties' use of reasonable best efforts to minimize the Acquired Companies' reliance post-Closing on the services provided under the Transition Services Agreement and the duration thereof; provided that none of Sellers or their Affiliates shall be required to provide any services defined as "Excluded Services" under the Transition Services Agreement.

4.18 NERC Registration. Sellers and Purchaser shall, at Purchaser's sole cost and expense, use reasonable best efforts to implement Purchaser's selected North American Electricity Reliability Corporation ("NERC") registration option from the two options set forth in Section 4.18 of the Sellers Disclosure Letter, including certification as a transmission operator, so that Purchaser or an Affiliate of Purchaser is registered with NERC in accordance with 18 C.F.R. § 39.2(c) for all applicable functions for the bulk electric system facilities owned by Kentucky Power and Kentucky Transco in accordance with the NERC Rules of Procedure with a registration effective date of the Closing. Purchaser will notify Seller of its chosen option within thirty (30) days of the Effective Date. Nothing in this Section 4.18 shall constitute a condition to the obligations of either Party to consummate the Closing.

4.19 Master Leases. If a counterparty to one or more of the Shared Contracts described on Section 4.19 of the Sellers Disclosure Letter (the "Master Leases") has not agreed to replace or bifurcate into stand-alone Contracts such Shared Contracts on or before the earlier of (x) the date that is 120 days after the date of this Agreement and (y) the Closing Date, to be effective as of the Closing Date, Sellers shall (and shall cause their Affiliates (including the Acquired Companies) to) use reasonable best efforts to replace the Master Leases with alternative capital lease arrangements from third parties on substantially the same terms or such other terms as are reasonably acceptable to Purchaser. If, despite such reasonable best efforts, Sellers are unable to effect such replacement, Sellers shall cause Kentucky Power to (a) use reasonable best efforts to purchase the property, plant and equipment leased under the applicable Master Lease and used primarily in the business of the Acquired Companies (other than in connection with the operation of Mitchell by Kentucky Power prior to Closing, which property, plant and equipment Sellers and their Affiliates shall use reasonable best efforts to transfer, caused to be leased by or to provide the benefit of to the Successor Operator effective as of the Closing) so that title to such leased property, plant and equipment transfers to Kentucky Power, free and clear of any Encumbrances, other than Permitted Encumbrances and (b) withdraw from, sever, replace or terminate its participation in the applicable Master Lease prior to the Closing; provided, that Purchaser's prior written consent, not to be unreasonably withheld, conditioned or delayed, shall be required for any action referred to in the foregoing clauses (a) and (b) to the extent that the aggregate purchase price payable for all such property, plant and equipment is in excess of $10,000,000.

4.20 Transfer of Mitchell Assets and Mitchell Employees to Successor Operator; Mitchell Plant Approvals.

(a) At or prior to the Closing, Sellers shall cause Kentucky Power to use reasonable best efforts to cause any property, assets, vessels (including the vessel named the W.M. Robinson), Contracts, Permits, Environmental Permits or Claims held by Kentucky Power, in its capacity as the operator of Mitchell, or otherwise to the extent held by Kentucky Power for the benefit of the owners of Mitchell, in each case as set forth in Section 4.20(a) of the Sellers Disclosure Letter (collectively, the "Mitchell Operator Assets" and each, individually, a "Mitchell Operator Asset"), to be assigned, transferred or conveyed to Successor Operator or an Affiliate thereof.

(b) Notwithstanding anything in this Agreement or any Ancillary Agreement to the contrary, this Agreement and the Ancillary Agreements shall not constitute an agreement to transfer or assign any Mitchell Operator Asset if an attempted assignment thereof, without the consent of a third party, would constitute a breach or other contravention under any Contract or Law to which any Acquired Company or any member of the Seller Group is a party or by which it is bound, or would in any way adversely affect the rights of any Acquired Company or such member of the Seller Group relating to such Mitchell Operator Asset or any right related thereto that any member of the Seller Group is entitled to retain. To the extent that Sellers are unable, or in their reasonable judgment determine they are unlikely, to obtain any required consent with respect to a Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement prior to Closing, Sellers and Purchaser shall cooperate to implement any lawful and commercially reasonable arrangement as Sellers and Purchaser shall agree under which Successor Operator or an Affiliate thereof would, to the extent practicable, obtain the rights and benefits under such Mitchell Operator Asset and assume the burdens and obligations with respect thereto, subject to Kentucky Power and Successor Operator (in such capacity or its capacity as the owner of an undivided interest in Mitchell) each bearing its respective allocated share of costs in accordance with the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement, including by subcontracting, sublicensing, subleasing, delegating or granting a limited power of attorney or similar appointment as agent to Successor Operator or an Affiliate thereof. Sellers and Purchaser shall continue to cooperate on and after the Closing to assign, transfer or convey to Successor Operator or an Affiliate thereof any Mitchell Operator Asset that is reasonably necessary to be transferred to the Successor Operator to comply with its obligations under the Mitchell Plant O&M Agreement that remains held by Kentucky Power and to otherwise arrange for Successor Operator to directly contract with the applicable third party for any renewal Contract upon the expiration or termination of any Contract constituting any such Mitchell Operator Asset.

(c) Sellers shall cause Successor Operator or one or more Affiliates of Sellers (other than the Acquired Companies) to transfer the employment of the Mitchell Employees to such Successor Operator or one or more Affiliates of Seller prior to the Closing Date, to be effective as of the first payroll period in which the Closing Date occurs or, if earlier, the first day of the payroll period following the date that the Mitchell Plant Ownership Agreement and Mitchell Plant O&M Agreement shall become effective after receipt of all applicable regulatory approvals, including the Mitchell Plant Approvals. On or prior to the Closing Date, Successor Operator or such Affiliate shall become the employer of each Mitchell Employee who does not resign their employment in lieu of the transfer prior to the proposed date of the employment transfer.

(d) Sellers shall take the lead on strategy with respect to the Parties' efforts to obtain the Mitchell Plant Approvals after considering and reflecting in good faith all reasonable comments and advice of Purchaser (and its counsel), and Purchaser shall reasonably cooperate with Sellers in connection therewith. Subject to the last sentence of Section 4.5(d), Sellers shall be entitled to cause Kentucky Power and Wheeling to make such modifications to the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement as are reasonably necessary to comply with the Mitchell Plant Approvals, including in respect of any settlement of the proceedings related thereto, in each case entered following the Effective Date, and to cause such parties to execute the Mitchell Plant Ownership Agreement and the Mitchell Plant O&M Agreement prior to the Closing, as such agreements shall be so modified, if and to the extent that such agreements have been finalized and the Mitchell Plant Approvals have been obtained and have become Final Orders. For the avoidance of doubt, (i) any change in the form or substance of the forms of the Mitchell Plant Ownership Agreement or Mitchell Plant O&M Agreement, included as Exhibit B and Exhibit C, respectively, to this Agreement, after the Effective Date, to the extent that such change is adverse to the interests of Purchaser or the Acquired Companies

and relates to the period on and after the Closing Date and (ii) any other undertaking, term, condition, liability, obligation, commitment or sanction imposed on or agreed to by the Acquired Companies in obtaining the Mitchell Plant Approvals that relates to the period on and after the Closing Date, in each case of clauses (i) and (ii), shall be taken into account for purposes of any determination under this Agreement as to whether a Burdensome Condition shall have occurred.

(e) Concurrently with, and conditioned upon, the closing of any sale, assignment, transfer or conveyance of the Mitchell Interest to Wheeling in accordance with the Mitchell Plant Ownership Agreement, Sellers shall cause AEP Generation Resources Inc. to enter into an indemnity agreement for the benefit of Kentucky Power on the terms described on Section 4.20(e) of the Sellers Disclosure Letter.

4.21 Corporate Offices and Service Centers. For a period of no less than five years from the Closing Date, Purchaser shall cause Kentucky Power to maintain its existing corporate headquarters in Kentucky and, other than in the ordinary course of its business, maintain its existing offices and service centers in Kentucky.

4.22 Insurance. Except as provided herein or in the Ancillary Agreements, Purchaser hereby acknowledges and agrees that effective as of the Closing, each Acquired Company shall cease being covered by, and having the benefit of, any insurance coverage (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves) for the benefit of any Acquired Companies maintained by Sellers or their Affiliates. Purchaser and its Affiliates shall be solely responsible for providing, or causing to be provided, insurance to each Acquired Company for any claims made after the Closing (subject to the remainder of this Section 4.22 with respect to losses prior to the Closing). For the avoidance of doubt, any amounts recovered prior to the Closing by the Acquired Companies in respect of losses incurred prior to the Closing shall be for the benefit of Sellers, and Purchaser shall promptly remit any such funds received following Closing to the Sellers. If there is any actual or potential loss prior to the Closing which is insured under any insurance policy covering the Acquired Companies or any of their respective assets or liabilities (including any policy issued by any "captive" insurer, together with any insurance-related, self-insurance or similar funds or reserves), Sellers shall use reasonable best efforts to provide notice of such loss to the applicable insurers prior to the Closing, and Sellers shall use reasonable best efforts to ensure the Acquired Companies can file, notice and otherwise continue to pursue such claims and recover proceeds under the terms of such policies (including with respect to any actual or potential loss in respect of the matters set forth on Section 4.22 of the Sellers Disclosure Letter). Sellers shall provide reasonable assistance to the Acquired Companies after the Closing with regard to pursuit of such claims, and Purchaser shall provide reasonable assistance to Seller with regard to investigating, defending and settling such claims. Following the Closing, to the extent that (a) any insurance policies of Sellers or their Affiliates (including any policies issued by any "captive" insurer) cover any loss in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to the Closing and (b) such policies do not preclude claims from being made thereunder with respect to such losses arising out of, relating to or resulting from occurrences prior to the Closing ("Business Claims"), then, at Purchaser's sole cost and expense, Sellers or their Affiliates shall reasonably cooperate with Purchaser (upon Purchaser's written request) in Purchaser's submission of Business Claims (or Purchaser's pursuit of claims previously made) on behalf of Purchaser or an Acquired Company, as applicable, under any such policy. To the extent any insurance policies in place for the benefit of the Acquired Companies prior to Closing would preclude claims being made thereunder in accordance with clause (b) above following Closing, including any requirement to obtain consent of any issuer of any such policy, Sellers shall use reasonable best efforts to take any actions necessary in order to permit such claims to be made. With respect to Business Claims, Sellers shall take no action to exclude or remove the Acquired Companies with respect to the

period prior to Closing from the insurance policies that were in place for the benefit of the Acquired Companies prior to Closing and shall not take any action following Closing that would reasonably be expected to impair any right or ability of the Acquired Companies to file claims for losses incurred prior to Closing consistent with Section 4.22. For purposes of this Agreement, that certain Claim Handling and Funding Agreement, dated May 30, 1996, between AEPSC and Nationwide (as successor to Employers Insurance of Wausau) (the "Claim Handling and Funding Agreement"), and any rights of any Seller or its Affiliates thereunder (including any accruals on behalf of any of the foregoing), shall be deemed to cover losses in respect of any of the Acquired Companies arising out of, relating to or resulting from occurrences prior to Closing and shall be treated as an insurance policy benefiting the Acquired Companies. Without limiting the foregoing, Sellers shall use reasonable best efforts to cause the Acquired Companies to have the same rights and privileges as AEPSC under the Claim Handling and Funding Agreement.

4.23 Misdirected Payments.

(a) Each Seller shall, or shall cause its applicable Affiliate to, promptly pay or deliver to Purchaser (or its designated Affiliates) any monies or checks that have been sent to such Seller or any of its Affiliates after the Closing Date by customers, suppliers or other contracting parties of any Acquired Company or any of its businesses to the extent that they are in respect of the businesses of any Acquired Company or otherwise properly payable to any Acquired Company.

(b) Purchaser shall, or shall cause its applicable Affiliate to, promptly pay or deliver to each Seller (or its designated Affiliates) any monies or checks that have been sent to Purchaser or any of its Affiliates (including the Acquired Companies) after the Closing Date to the extent that they are not in respect of any business of any Acquired Company and not otherwise properly payable to any Acquired Company but rather properly payable to such Seller or its Affiliates.

4.24 Misallocated Assets. If, within twenty four (24) months following the Closing, any right, property or asset exclusively related to a business of either Seller or any Affiliate thereof (other than any Acquired Company) other than the business of any Acquired Company, or exclusively used by any Seller or an Affiliate thereof (other than any Acquired Company) in a manner unrelated to the business of any Acquired Company prior to the Closing is found to have been transferred to Purchaser through its acquisition of the Acquired Companies in error (and not so contemplated in Section 4.8, Section 4.17, Section 4.20 or in the Ancillary Agreements), Purchaser shall cause the Acquired Companies to transfer, for no consideration (but at no cost to Purchaser or any of its Affiliates), such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents), to such Seller or an Affiliate thereof designated by such Seller. If, following the Closing, any right, property or asset exclusively related to, or exclusively used in, the business of any Acquired Company prior to the Closing or necessary to conduct the business of any Acquired Company in substantially the same manner as conducted prior to the Closing is found to have been retained by any Seller or any Affiliate thereof in error, such Seller shall transfer, or shall cause such Affiliate to transfer, for no consideration, such right, property or asset as soon as practicable (including taking into account any required regulatory approvals or third party consents) to Purchaser or an Affiliate thereof (including any Acquired Company) designated by Purchaser.

4.25 Financing Cooperation.

(a) Prior to Closing (or the earlier termination of this Agreement pursuant to Section 8.1), subject to the limitations set forth in this Section 4.25, and unless otherwise agreed by Purchaser, Sellers will, at Purchaser's cost and expense (as provided in clause (d) below), use commercially

reasonable efforts to (and will use commercially reasonable efforts to cause the Acquired Companies and their Affiliates and Representatives to) cooperate with Purchaser as may be reasonably requested by Purchaser in connection with Purchaser's or its Affiliates' arrangement, syndication and obtaining financing in connection with the acquisition of the Acquired Companies (the "Financing"). Such cooperation will include using commercially reasonable efforts to:

(i) cooperate with the marketing efforts of Purchaser in connection with the Financing, including making appropriate senior officers reasonably available, with appropriate advance notice, for participation in a reasonable number of lender or investor meetings, due diligence sessions, meetings with ratings agencies and road shows, and providing reasonable assistance in the preparation of rating agency presentations, confidential information memoranda, private placement memoranda, offering memoranda, prospectuses, registration statements, filings with the SEC and Canadian securities regulators, lender and investor presentations and similar documents as may be reasonably requested by Purchaser, in each case, with respect to information relating to the Acquired Companies in connection with such marketing efforts;

(ii) prepare and furnish Purchaser and the lenders, underwriters, agents, banks or other financing sources ("Financing Sources"), on a confidential basis, as promptly as reasonably practicable all information with respect to the Acquired Companies as is reasonably requested by Purchaser and is customarily (A) required for the marketing, arrangement and syndication of financings or (B) used in the preparation of customary offering or information documents or rating agency, lender presentations or road shows relating to any financing, provided that such information shall be limited to information and data derived from the Acquired Companies' historical books and records;

(iii) furnish all documentation and other information required by a Governmental Entity or any Financing Source under applicable "know your customer" and anti-money laundering rules and regulations, including the USA PATRIOT ACT (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) and anti-bribery and anti-corruption rules and regulations to the extent reasonably requested by Purchaser;

(iv) providing reasonable assistance to Purchaser to produce financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws or any financing arrangements and assisting Purchaser in the preparation of such financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from the Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information; and

(v) assist with the Financing Sources' requests for due diligence to the extent customary and reasonable.

provided, further, that (A) nothing in this Section 4.25 shall require Sellers to cause the delivery of legal opinions or reliance letters or any certificate as to solvency or any other certificate necessary for the Financing; and (B) Sellers will use reasonable best efforts to (and will use reasonable best efforts to

cause the Acquired Companies and their Affiliates and Representatives to), reasonably promptly update any information in respect of Sellers and the Acquired Companies to be included in any document filed with the SEC or Canadian securities regulators so that such information does not contain, as of the time provided, any untrue statement of material fact or omit to state any material fact necessary in order to make the statements contained therein not misleading.

(b) Sellers agree to use reasonable best efforts to (and will use reasonable best efforts to cause their Affiliates and Representatives to) provide, reasonable assistance to Purchaser for a period of three months following Closing to produce the financial statements (including pro forma and audited financial statements of the Acquired Companies) required to be delivered pursuant to any securities laws and assisting Purchaser in the preparation of financial statements; provided, that neither the Sellers nor their Representatives shall be required to provide any such assistance with respect to financial information or statements relating to (A) the determination of the proposed aggregate amount of the Financing, the interest rates thereunder or the fees and expenses relating thereto; (B) the determination of any post-Closing or pro forma cost savings, synergies, capitalization, ownership or other pro forma adjustments desired to be incorporated into any information used in connection with the Financing; or (C) any adjustments that are not directly related to the acquisition of the Acquired Companies; provided further that (x) such assistance shall be limited solely with respect to information and data derived from each Seller's historical books and records and (y) neither Sellers nor their Representatives shall be required to certify or attest to any such pro forma financial statements or other forecasted information.

(c) Purchaser shall indemnify and hold harmless Sellers and their Affiliates and their respective directors, officers and employees from and against any and all Losses suffered or incurred by them in connection with the arrangement and completion of any Financing or related transactions by Purchaser in connection with financing the transactions contemplated hereby and any information utilized in connection therewith. This Section 4.25(c) shall survive the consummation of the Closing and any termination of this Agreement, and is intended to benefit, and may be enforced by, the officers and directors of the Sellers and their Affiliates and their respective heirs, executors, estates and personal representatives who are each third party beneficiaries of this Section 4.25(c).

(d) Nothing in this Section 4.25 shall require any such cooperation to the extent that it would require any Seller or the Acquired Companies to: (i) waive or amend any terms of this Agreement or agree to pay any fees or reimburse any expenses for which it has not received prior reimbursement or is not otherwise indemnified by or on behalf of Purchaser; (ii) enter into any definitive agreement; (iii) give any indemnities in connection with the Financing; (iv) take any action that, in the good faith determination of the Sellers, would unreasonably interfere with the conduct of the business of the Sellers and their Affiliates or create an unreasonable risk of damage or destruction to any property or assets of the Sellers or any of their Affiliates; (v) adopt resolutions (whether by the board of directors of the Sellers or otherwise) approving the agreements, documents and instruments pursuant to which the Financing is obtained, other than those effective on the Closing Date; (vi) provide any assistance or cooperation that (A) would cause any representation or warranty in this Agreement made by any Seller to be breached, or (B) cause any conditions to Closing set forth in this Agreement to fail to be satisfied by the Outside Date or otherwise result in a breach of this Agreement by Sellers that would provide Purchaser the right to terminate this Agreement (unless waived by Purchaser); or (v) cooperate to the extent it would require the disclosure of information which the Sellers or the Acquired Companies reasonably determine would reasonably be expected to jeopardize the attorney-client or other similar privilege of the Sellers or any of the Acquired Companies or violate any Applicable Law to which the Sellers or any of the Acquired Companies is a party.

(e) Purchaser shall promptly upon request by Sellers, reimburse Sellers for all of their reasonable and documented out-of-pocket fees and expenses (including reasonable fees and expenses of counsel and accountants) incurred by Sellers and the Acquired Companies, any of its or their representatives in connection with any cooperation contemplated by this Section 4.25.

ARTICLE V

EMPLOYEE, LABOR AND BENEFITS MATTERS COVENANTS

5.1 Seller Benefit Plans. Effective as of the Closing Date, the Continuing Employees shall cease to accrue further benefits and shall cease to be active participants under any Seller Benefit Plans except as provided by the terms of such plans or applicable Law. As of the Closing Date, all Continuing Employees shall become vested on a prorated basis under the terms of any Restricted Stock Unit Award Agreement issued to such Continuing Employee under the terms of the American Electric Power System Long-Term Incentive Plan as if such employees termination of employment with the Acquired Company had involved a Severance Date (as defined in such agreement).

5.2 Non-Covered Employees. All Non-Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date (such persons, the "Continuing Non-Covered Employees"). Purchaser acknowledges that those employees set forth on Section 5.2 of the Sellers Disclosure Letter will not be employees of the Acquired Company on the Closing Date.

5.3 Covered Employees Offers and Post-Closing Employment and Benefits.

(a) All Covered Employees who are employees of an Acquired Company, if still employed by an Acquired Company immediately prior to the Closing Date, shall continue to be employees of such Acquired Company on the Closing Date and shall be deemed a "Continuing Covered Employee."

(b) Purchaser acknowledges that any Collective Bargaining Agreement applicable to Continuing Covered Employees and to which an Acquired Company is a party shall continue in effect according to its terms after the Closing.

5.4 Post-Closing Employment and Benefits for Non-Covered Employees. Purchaser shall provide, or shall cause one of its Affiliates to provide, to each Continuing Non-Covered Employee during the period from the Closing Date through the second anniversary of the Effective Date (or if shorter, the period during which the Continuing Non-Covered Employee is employed by Purchaser or one of its Affiliates) (the "Continuation Period"):

(a) base salary/wage rate at a rate at least equal to the base salary/wage rate provided to the Non-Covered Employee immediately prior to the Closing, and annual bonus opportunities (including target and maximum payouts, but excluding long-term and equity-based compensation opportunities), which, together with base salary/wage rate, are at least equal, in the aggregate, to the base salary/wage rate and such annual bonus opportunities provided to the Non-Covered Employee immediately prior to Closing;

(b) vacation, sick pay and other paid time off accrued but unused as of the Closing on terms and conditions not less favorable than the terms and conditions in effect immediately prior to the Closing; and

(c) other employee benefits (other than severance benefits, which shall be as provided as set forth in Section 5.6), including any benefits in substitution or replacement for any existing long-term and equity-based compensation opportunities (including, without limitation, cash payments or increased base salary/wage rate) of a Continuing Non-Covered Employee, which are no less favorable in the aggregate to the employee benefits (other than severance benefits) provided to the Non-Covered Employee immediately prior to Closing. Without limiting the generality of the foregoing, Continuing Non-Covered Employees who, as of the Closing Date, would have become eligible for retiree medical coverage under any Seller Benefit Plan within two (2) years following the Closing Date had they remained eligible for coverage under the Seller Benefit Plans, shall remain able to become eligible for such retiree medical benefits under substantially similarly terms and conditions under plans maintained by Purchaser or its Affiliates following the Closing.

5.5 Welfare Plans. Purchaser or an Affiliate of Purchaser shall cause each Continuing Employee and his or her eligible dependents (including all such employee's dependents covered immediately prior to the Closing Date by a Seller Benefit Plan that is a welfare benefit plan) coverage under a welfare benefit plan maintained by Purchaser or one of its Affiliates that (A) ensures that no waiting periods, exclusions or limitations with respect to any pre-existing conditions, evidence of insurability or good health or actively-at-work exclusions are applicable to any Continuing Employee or their dependents or beneficiaries under any welfare benefit plans in which such employees may be eligible to participate and (B) credits such Continuing Employee, for the plan year during which the Closing occurs, with any deductibles, co-payments and amounts credited toward out-of-pocket maximums incurred under a Seller Benefit Plan toward satisfying any deductible, co-payment and out-of-pocket maximum requirements under the medical plan of Purchaser or any of its Affiliates in which the Continuing Employee participates during the plan year in which the Closing occurs.

5.6 Severance. Purchaser shall, or shall cause one of its Affiliates to, pay to each Continuing Employee who is terminated during the Continuation Period for any reason other than cause or the Continuing Employee's death or disability (a "Severed Continuing Employee"), subject to the Continuing Employee's timely executing and not revoking a release of claims, a lump sum payment in cash equal to two weeks' base pay for each year of service or portion thereof (taking into account, for this purpose, service as a Continuing Employee as well as service that would be credited to the Severed Continuing Employee under Section 5.7), with a minimum of eight (8) weeks' base pay, with the base pay determined at the then applicable rate. For this purpose, (a) the resignation by a Continuing Employee in lieu of a requirement that such employee transfer to a main work location that is more than 50 miles from his or her main work location as of the Closing Date, and (b) the termination of a Continuing Employee's employment by reason of such employee's declining a request for such a transfer shall be considered termination for a reason other than cause. In addition, to the extent a Severed Continuing Employee elects COBRA Continuation Coverage, the amount payable by such Severed Continuing Employee in respect of COBRA premiums during the months that such COBRA Continuation Coverage remains in effect (but only up to the first eighteen (18) months) shall be no more than the active employee premiums payable for the same medical and/or dental coverage covering the Severed Continuing Employee and the Severed Continuing Employee's spouse and eligible dependents. Notwithstanding the foregoing, if any Continuing Employee is entitled to severance benefits under an individual severance, employment or similar agreement, the terms of such agreement and not this Section 5.6 shall govern, and Continuing

Covered Employees shall be entitled to severance benefits only to the extent provided in a Collective Bargaining Agreement or otherwise agreed by the applicable union.

5.7 COBRA. Purchaser shall provide, or shall cause one of its Affiliates to provide, continuation health care coverage to Continuing Employees and their qualified beneficiaries who incur a qualifying event, in accordance with the continuation health care coverage requirements of Section 4980B of the Code and Title I, Subtitle B, Part 6 of ERISA ("COBRA") or any similar provisions of state Law, after the Closing Date. Sellers and their Affiliates shall be solely responsible for any obligations under COBRA with respect to all "M&A qualified beneficiaries" as defined in Treasury Regulation Section 54.4980B-9.

5.8 Service Credit. Purchaser shall, or shall cause one of its Affiliates to, provide full service credit for all purposes including eligibility to participate, vesting and benefit accrual (other than for benefit accrual purposes under any defined benefit pension plan) under all employee benefit plans, policies and arrangements (other than equity or equity-based plans, policies and arrangements) made available to Continuing Employees by Purchaser or any of its Affiliates after the Closing to the same extent such Continuing Employee's service was recognized under the corresponding Seller Benefit Plans in which such Continuing Employee participated immediately prior to the Closing Date.

5.9 Savings Plans. Effective as of the Closing Date, Purchaser or one of its Affiliates shall establish or maintain a defined contribution 401(k) plan (or plans) and trust (or trusts) intended to qualify under Sections 401(a) and 501(a) of the Code in which all Continuing Non-Covered Employees shall be eligible to participate ("Purchaser Savings Plan") and in which Covered Employees shall be eligible to participate ("Purchaser Union Savings Plan") following the Closing Date. Continuing Employees shall be eligible to effect a direct rollover (as described in Section 401(a)(31) of the Code) from any Seller Benefit Plans which is a defined contribution 401(k) plan, to the Purchaser Savings Plan and the Purchaser Union Savings Plan, as applicable, and Purchaser or one of its Affiliates shall cause the Purchaser Savings Plan or Purchaser Union Savings Plan, as applicable, to accept such direct rollovers.

5.10 Incentive Awards. Purchaser shall, and shall cause its Affiliates, as applicable, to maintain the bonus opportunities provided for under any Seller Benefit Plan that is an annual bonus plan through the end of the fiscal year in which the Closing occurs and will pay any bonuses earned thereunder at such time as Sellers and their Affiliates has historically paid such bonuses. Each Continuing Employee's bonus in respect of the fiscal year in which the Closing occurs shall be bifurcated as follows: (i) such bonus shall not be less than such Continuing Employee's target bonus in respect of such fiscal year prior to the Closing under the applicable Seller Benefit Plan and (ii) such bonus shall be based on the actual performance of Purchaser in respect of such fiscal year following the Closing.

5.11 Pre-Closing Date Claims under Seller Benefit Plans. To the extent that an Acquired Company Employee was a participant in a Seller Benefit Plan, the Seller Benefit Plans shall be responsible for providing benefits (including medical, hospital, dental, accidental death and dismemberment, life, disability and other similar benefits) to any participating Acquired Company Employees for all Claims incurred prior to the Closing under and subject to the generally applicable terms and conditions of such plans. For purposes of this Section 5.11, a Claim is incurred with respect to (i) accidental death and dismemberment, disability, life and other similar benefits when the event giving rise to such Claim occurred and (ii) medical, hospital, dental and other similar benefits when the services with respect to such Claim are rendered, and in any event as defined by the underlying terms of the Seller Benefit Plans. Purchaser shall, or shall cause one of its Affiliates to, assume and honor all accrued and unused vacation and paid time off balances of the Continuing Employees in accordance with the applicable Seller Benefit Plan in effect at the Closing Date, except to the extent any such balances are

paid to such Continuing Employee in connection with the Closing in accordance with any applicable Laws.

5.12 [Reserved]

5.13 Workers Compensation. Sellers and their Affiliates shall be responsible for and administer all claims for workers compensation benefits that are incurred prior to the Closing by Continuing Employees. Purchaser and its Affiliates shall be responsible for and shall administer all claims for workers compensation benefits that are incurred from and after the Closing by Continuing Employees. A claim for workers compensation benefits shall be deemed to be incurred when the claim for workers compensation benefits is filed by the Continuing Employee with the applicable governmental authority (the "Workers Compensation Event").

5.14 WARN Act. From the Effective Date until the Closing Date, Sellers shall not, and shall cause their Affiliates not to, terminate the employment of Acquired Company Employees such that a "plant closing" or "mass layoff" (as those terms are defined in the WARN Act) occurs prior to or as of the Closing, except pursuant to Section 4.1(a)(v). Purchaser agrees that the Acquired Companies shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting Continuing Employees that may occur after the Closing Date. Sellers shall be responsible for providing any notice required under (or otherwise satisfying the requirements of) the WARN Act with respect to any "plant closing" or "mass layoff" affecting any employees of Seller or any of its Affiliates (other than the Acquired Companies) who do not become Continuing Employees.

5.15 Employee Communications. Sellers shall use reasonable best efforts to cooperate with Purchaser and its Affiliates in communications with Acquired Companies Employees with respect to employment and employee benefit plan matters arising in connection with the transactions contemplated by this Agreement.

5.16 No Third-Party Beneficiary Rights. Nothing in this Article V, expressed or implied, shall confer upon any Person (including the Acquired Companies Employees, Continuing Employees or any other employees of Sellers, Purchaser, or any of their respective Affiliates or any of their dependents, beneficiaries or alternate payees) other than the Parties any rights or remedies (including any third-party beneficiary rights, any right to employment or continued employment, or any right to any particular terms of conditions of employment or compensation or benefits for any period) of any nature or kind whatsoever, under or by reason of this Agreement or otherwise, and nothing in this Article V shall (i) affect the right of each of Sellers, Purchaser or their respective Affiliates to terminate the employment of any Person for any or no reason at any time, (ii) require Sellers or any of their Affiliates to continue any Seller Benefit Plan or other employee benefit plans or arrangements, (iii) prevent Sellers or any of their Affiliates from amending, modifying or terminating any Seller Benefit Plan or other employee benefit plans or arrangements, (iv) be construed as prohibiting or limiting the ability of Purchaser or any of its Affiliates to amend, modify or terminate any benefit or compensation plan, program, policy, Contract, agreement or arrangement at any time assumed, established, sponsored or maintained by any of them, or (v) be construed as an establishment of, amendment to or termination of any benefit or compensation plan, program, policy, Contract, agreement or arrangement. In addition, the provisions of this Section 5.16 are for the sole benefit of the Parties and are not for the benefit of any other Person, including any Acquired Company Employee, Continuing Employee, any other employee of any Sellers, Purchaser or any of their respective Affiliates (including any beneficiary or dependent thereof), or any other third party.

5.17 Non-Solicitation of Business Employees. In the event that this Agreement is terminated prior to the Closing pursuant to the terms of this Agreement, until the date that is one (1) year from and after the date of such termination, (i) Purchaser shall not employ, and shall cause its Affiliates not to employ, any Acquired Company Employees or any Mitchell Employees to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby without Sellers' prior written consent and (ii) Purchaser shall not, and shall cause its Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Sellers or any of their Affiliates to whom Purchaser or its Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. From and after Closing, until the date that is one (1) year after the Closing Date, (A) Sellers shall not employ, and shall cause their Affiliates not to employ, any Continuing Employees without Purchaser's prior written consent and (B) Sellers shall not, and shall cause their Affiliates not to, directly or indirectly, solicit for hire or employment any officer or employee of Purchaser or any of its Affiliates to whom Sellers or their Representatives had been directly or indirectly introduced or otherwise had contact with as a result of its consideration of the transactions contemplated hereby. Notwithstanding anything to the contrary in this Section 5.17, the terms of this Section 5.17 shall not apply to (x) any solicitation that consists of a general advertisement or solicitation by Purchaser or Sellers or their Affiliates through the use of media advertisements, the Internet (including Sellers' or their Affiliates' internal career websites), or professional search firms that is not targeted at employees of Sellers, Purchaser or their Affiliates, as applicable, or (y) any solicitation (or any hiring as a result of any solicitation) of any person who for a period of at least six (6) months prior to such solicitation (and hiring) has no longer been employed by Sellers, Purchaser or their Affiliates, as applicable, other than as a result of any solicitation otherwise prohibited by this Section 5.17.

5.18 Code Section 409A. Contingent upon and effective as of the Closing Date, pursuant to 26 CFR §1.409A-3(j)(4)(ix), the Parties acknowledge and agree that the following Seller Benefit Plans (the "Seller Nonqualified Plans") shall be considered terminated with respect to each participant that experiences a change in control of the Acquired Companies by reason of the transactions effectuated under this Agreement (the "Affected Participants," being those plan participants who continue employment with the Acquired Companies (or other affiliates of the Purchaser) immediately after the Closing Date: (i) American Electric Power System Excess Benefit Plan; (ii) Central and South West System Special Executive Retirement Plan; (iii) American Electric Power System Supplemental Retirement Savings Plan; and (iv) American Electric Power System Incentive Compensation Deferral Plan. The Parties acknowledge and agree that contingent upon and effective as of the Closing Date, all of the Affected Participants shall receive all amounts deferred under the Affected Plans within 12 months of the Closing Date.

5.19 Transfer of Certain Employees. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make an offer of employment to each of the Covered Support Employees, which offer shall be based on the terms of the applicable Collective Bargaining Agreement and conditioned upon the occurrence of the Closing and effective as of the Closing Date. Sellers and Purchaser shall cooperate to cause an Acquired Company, at least 30 days prior to the reasonably expected Closing Date, to make a Qualifying Offer of employment to each of the Non-Covered Support Employees, which Qualifying Offer shall be conditioned upon the occurrence of the Closing and effective as of the Closing Date, except in the case of Support Employees who are not actively at work as of the Closing Date due to long-term disability or other approved continuous leave of absence (excluding, without limitation, paid-time off, short-term disability or intermittent leave) ("Delayed Transfer Employees"), in which case such offers (or reemployment) shall be made as of the date, if any, each such Support Employee has been cleared for and returns to active employment within 12 months following the Closing Date or such later date as required by Law and

effective immediately following acceptance. At least 30 days prior to the reasonably expected Closing Date, Sellers shall provide Purchaser a list of Delayed Transfer Employees, which list shall be updated as necessary prior to Closing. A "Qualifying Offer" means an offer of employment in a position comparable to that which such Support Employee had immediately prior to the Closing (or, in the case of a Delayed Transfer Employee, commencement of his or her absence from active employment). Sellers shall retain and be solely responsible for all Liabilities arising from or relating to Sellers' or any of its Affiliates' identification of Support Employees (or the omission of any person from that list). At least 21 days prior to the reasonably expected Closing Date, Purchaser shall add Section 5.19 to the Purchaser Disclosure Letter to confirm that Purchaser has made a Qualifying Offer of employment to each of the Support Employees as set forth in this section (other than any Delayed Transfer Employees who has not then returned to active employment) and to indicate each Support Employees who has accepted such offer of employment. Sellers shall cause each of such accepting Support Employee to become an employee of Kentucky Power prior to the Closing Date. Any Delayed Transfer Employee who accepts a Qualifying Offer that will not become effective until after the Closing Date pursuant to this Section 5.19 shall become an employee of Purchaser (or an Affiliate of Purchaser effective immediately upon acceptance.

ARTICLE VI

TAX MATTERS

6.1 Withholding. Unless required by a change in Law after the date hereof, Purchaser, its Affiliates, and any of their agents, shall not deduct and withhold from any amount otherwise payable pursuant to this Agreement other than with respect to amounts (a) as a result of a failure to deliver the certificate or applicable tax form described in Section 1.3(b)(i)(C) or (b) which are treated as wages for U.S. federal income tax purposes. If any of Purchaser or its Affiliates or agents proposes to withhold any amounts, such Person shall use its reasonable best efforts to notify Sellers at least five business days in advance of making any such withholding or deduction and use its reasonable best efforts to cooperate with Sellers in reducing or eliminating any such proposed withholding or deduction. If any amount is so withheld, such amount shall be (i) properly and timely paid over to the applicable Governmental Entity and (ii) treated for all purposes of this Agreement as having been paid to the Person with respect to which such deduction or withholding was imposed.

6.2 Tax Year End. Purchaser shall cause the Acquired Companies to join Purchaser's "consolidated group" (as defined in Treasury Regulations Section 1.1502-1(h)) effective on the day after the Closing Date. Following the Closing, Purchaser shall not, and shall cause the Acquired Companies to not, take any action, or permit any action to be taken, that may prevent the taxable year of the Acquired Companies from ending for U.S. federal and (to the extent permitted under applicable Law) state, local or non-U.S. Income Tax purposes at the end of the day on which the Closing occurs and shall, to the extent permitted by applicable Law, elect with the relevant taxing authority to treat for all Income Tax purposes the Closing Date as the last day for which the Acquired Companies are included in the Seller Affiliated Tax Group. For the avoidance of doubt, Sellers shall prepare, or cause to be prepared, and file, or cause to be filed, all Tax Returns of or with respect to the Acquired Companies for Tax periods ending on and before the Closing Date.

6.3 Tax Proceedings. Notwithstanding anything in this Agreement to the contrary, Sellers shall have the exclusive right to control in all respects, and neither Purchaser nor any of its Affiliates shall be entitled to participate in, any Tax Proceeding with respect to any Tax Return filed by or with respect to, or Tax matters relating to, the Seller Affiliated Tax Group.

6.4 Cooperation with Respect to Taxes.

(a) Each Party shall, and shall cause its Affiliates to, provide to the other Parties such cooperation, documentation and information as either of them reasonably may request in (i) preparing and filing any Tax Return, amended Tax Return or claim for refund, (ii) determining a liability for Taxes or a right to refund of Taxes or (iii) conducting any Tax Proceeding. Such cooperation, documentation and information shall include providing necessary powers of attorney, copies of all relevant portions of relevant Tax Returns, together with all relevant portions of relevant accompanying schedules and relevant work papers, relevant documents relating to rulings or other determinations by taxing authorities and relevant records concerning the ownership and Tax basis of property and other relevant information that any such Party may possess. Each Party shall make its employees reasonably available on a mutually convenient basis at its own cost to provide an explanation of any documents or information so provided.

(b) Notwithstanding anything to the contrary in this Agreement, nothing in this Agreement shall be construed to require any Seller (or any of its Affiliates) (i) to provide cooperation, documentation or information with respect to Taxes or Tax Returns of the Seller Affiliated Tax Group or (ii) to provide Purchaser (or any of its Affiliates, including the Acquired Companies) with access to any such documentation, information or records, provided that, in each case, Seller and its Affiliates shall use commercially reasonable efforts to provide Purchaser with reasonable cooperation, documentation, information or records that are in Seller's possession and that are redacted or are pro forma and relate exclusively to the Acquired Companies.

6.5 Tax Sharing Agreements. On or before the Closing Date, the rights and obligations of the Acquired Companies pursuant to all Tax sharing agreements or arrangements (other than this Agreement), if any, to which any Acquired Company, on the one hand, and any member of the Seller Affiliated Tax Group, on the other hand, are parties, shall terminate, and neither any member of the Seller Affiliated Tax Group, on the one hand, nor such Acquired Company, on the other hand, shall have any rights or obligations to each other after the Closing in respect of such agreements or arrangements.

6.6 Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Purchaser and Seller shall split equally any sales, use, transfer, real property transfer, registration, documentary, stamp, value added or similar Taxes imposed on or payable in connection with the transactions contemplated by this Agreement ("Transfer Taxes"). The Party required by applicable Law to do so shall prepare and file, or cause to be prepared and filed, any Tax Return with respect to such Transfer Taxes.

6.7 Post-Closing Matters.

(a) None of Purchaser or any of its Affiliates (including, after the Closing, the Acquired Companies) shall take any of the following actions, without the prior written consent of Sellers (which consent shall not be unreasonably withheld, conditioned or delayed): (i) make any Tax election, or change in Tax accounting period or method, that would have an effective date on or prior to the Closing Date or affect Taxes for any Seller or the Seller Affiliated Tax Group, (ii) amend any Tax Return for a Pre-Closing Tax Period, (iii) initiate or execute any voluntary disclosure agreement or similar agreement with any Tax authority with respect to a Pre-Closing Tax Period, (iv) extend the statute of limitations with respect to any Tax Return filed with respect to the Acquired Companies for any Pre-Closing Tax Period, or (v) engage in any action or transaction that is not in the ordinary course of business on the Closing Date but after the Closing.

(b) Notwithstanding any other provision of this Agreement, Purchaser shall report any transaction in which any Acquired Company engages that is not in the ordinary course of business and occurs on the Closing Date, but after the Closing, on Purchaser's U.S. federal income Tax Return to the extent permitted by Treasury Regulations Section 1.1502-76(b)(1)(ii)(B).

(c) At Sellers' request, Purchaser shall cause the Acquired Companies to make and/or join with the Seller Affiliated Tax Group in making any Tax election related to the Seller Affiliated Tax Group; provided, that the making of such election does not have an adverse effect in any material respect on Purchaser or the Acquired Companies for any Tax period beginning on or after the Closing.

(d) The Parties agree that no elections pursuant to Code Sections 336(e), 338(g) or 338(h)(10) shall be made by any Seller, any Affiliate of any Seller, Purchaser, any Affiliate of Purchaser, or the Acquired Companies, with respect to the Sale.

ARTICLE VII

CONDITIONS TO CLOSING

7.1 Conditions to Each Party's Closing Obligations. The respective obligations of each Party to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, joint waiver, by the Parties at or prior to the Closing of each of the following conditions:

(a) No Injunctions. No Governmental Entity of competent authority and jurisdiction shall have issued an Order or enacted a Law that remains in effect that prohibits or makes illegal the consummation of the transactions contemplated hereby (collectively, the "Legal Restraints").

(b) Regulatory Approvals. The Required Regulatory Approvals shall have been duly obtained, and such approvals shall have become Final Orders or, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated shall have expired or been terminated.

(c) NSR Consent Decree. The amended NSR Consent Decree contemplated by Section 4.13 shall have been duly executed and delivered by all parties thereto, approved and entered by the United States District Court for the Southern District of Ohio and in full force and effect.

(d) Mitchell Plant Approvals. The Mitchell Plant Approvals shall have been duly obtained, and such approvals shall have become Final Orders.

7.2 Conditions to Purchaser's Closing Obligations. Purchaser's obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Purchaser, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Sellers set forth in Section 2.1, Section 2.2, Section 2.3, Section 2.4(i) and Section 2.17 shall be true and correct (other than in *de minimis* respects) as of the Closing, as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), (ii) the representation and warranty of Sellers set forth in Section 2.6(b) shall be true and correct as of the Closing, as if made at and as of the Closing and (iii) each of the other representations and warranties of Sellers contained in Article II (disregarding all qualifications as to materiality or Material Adverse Effect contained therein) shall be true and correct as

of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (iii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Sellers to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificates. Purchaser shall have received a certificate from each Seller, signed on its behalf by an executive officer of such Seller and dated the Closing Date, to the effect that the conditions set forth in Section 7.2(a) and Section 7.2(b) have been fulfilled.

(d) Absence of Material Adverse Effect. Since the Effective Date, no Material Adverse Effect shall have occurred.

(e) Execution and Delivery of Ancillary Documents. Sellers or their applicable Affiliates shall have executed and delivered to Purchaser each of the Ancillary Documents to which they are a party, each of which shall be in full force and effect as of Closing.

(f) Burdensome Condition. No Required Regulatory Approval, Mitchell Plant Approval, Additional Regulatory Filing and Consent, amendment of the NSR Consent Decree contemplated by Section 4.13 shall, individually or in the aggregate, impose, be conditioned upon or contain terms, conditions, liabilities, obligations, commitments or sanctions resulting in, or otherwise create or have created, any Burdensome Condition.

7.3 Conditions to Sellers' Closing Obligation. Sellers' obligations to effect the transactions contemplated hereby are subject to the fulfillment or, to the extent permitted by applicable Law, waiver by Sellers, at or prior to the Closing of each of the following additional conditions:

(a) Representations and Warranties. (i) The representations and warranties of Purchaser set forth in Section 3.1 and Section 3.2 shall be true and correct (other than *de minimis* respects) as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date) and (ii) each of the other representations and warranties of Purchaser contained in Article III (disregarding all qualifications as to materiality or Purchaser Material Adverse Effect contained therein) shall be true and correct as of the Closing as if made at and as of the Closing (or, if expressly made as of a specific date, as of such date), except in the case of this clause (ii), where the failure of such representations and warranties to be true and correct would not reasonably be expected to have, individually or in the aggregate, a Purchaser Material Adverse Effect.

(b) Covenants and Agreements. The covenants and agreements of Purchaser to be performed at or before the Closing in accordance with this Agreement shall have been performed in all material respects.

(c) Officer's Certificate. Sellers shall have received a certificate from Purchaser, signed on Purchaser's behalf by an executive officer of Purchaser, stating that the conditions specified in Section 7.3(a) and Section 7.3(b) have been fulfilled.

(d) Execution and Delivery of Ancillary Documents. Purchaser or its applicable Affiliate shall have executed and delivered to Sellers each of the Ancillary Documents to which it is a party, each of which shall be in full force and effect as of Closing.

7.4 Frustration of Closing Conditions. No Party may rely on the failure of any condition set forth in Section 7.1 or Section 7.3, as the case may be, either as a basis for not consummating the Sale or any of the other transactions contemplated by this Agreement, or as a basis for terminating this Agreement, if such failure was caused by such Person's or its Affiliates' failure to act in good faith or to use the efforts to cause the Closing to occur that are required by this Agreement.

ARTICLE VIII

TERMINATION

8.1 Termination. This Agreement may be terminated at any time prior to the Closing:

(a) by mutual written consent of Sellers and Purchaser; or

(b) by either Sellers or Purchaser, if:

(i) the Closing shall not have occurred on or before the date that is twelve (12) months after the date of this Agreement (the "Outside Date"); provided, that the right to terminate this Agreement under this clause (i) shall not be available to (x) any Party whose failure to perform in any material respect any of its covenants or agreements contained in this Agreement has been the cause of, or has resulted in, the failure of the Closing to occur on or before such date or (y) a Party if another Party has filed (and is then pursuing) an Action seeking specific performance as permitted by Section 10.13; provided, further, that if, as of the end of the day on the date that is twelve (12) months after the date of this Agreement, the conditions to the Closing set forth in Section 7.1 have not been fulfilled but all other conditions to the Closing have been fulfilled or are capable of being fulfilled at the Closing, then the Outside Date shall be the date that is eighteen (18) months after the date of this Agreement;

(ii) Sellers (in the case of a termination by Purchaser) or Purchaser (in the case of a termination by Sellers) shall have breached or failed to perform in any material respect any of their respective representations, warranties, covenants or other agreements contained in this Agreement, and such breach or failure to perform (A) would give rise to the failure of a condition set forth in Section 7.2(a) or 7.2(b) (in the case of termination by Purchaser) or Section 7.3(a) or 7.3(b) (in the case of termination by Sellers), and (B) (1) is incapable of being cured prior to the Outside Date or (2) if capable of being cured prior to the Outside Date, has not been cured prior to the earlier of (x) sixty (60) days after the date on which Sellers or Purchaser, as applicable, receives written notice of such alleged breach or failure to perform from the party seeking termination, stating such party's intention to terminate this agreement pursuant to this Section 8.1(b)(ii) and the basis for such termination and (y) the Outside Date; provided, that the right to terminate this Agreement under this Section 8.1(b)(ii) shall not be available to any Party if such Party is then in breach of any of its respective representations, warranties, covenants or other agreements contained in this Agreement in a manner such that the conditions to the Closing set forth in Section 7.2(a) or Section 7.2(b) (with respect to a breach by any Seller) or Section 7.3(a) or Section 7.3(b) (with respect to a breach by Purchaser), as applicable, would not be satisfied;

(iii) the condition in Section 7.1(a) is not satisfied and the Legal Restraint giving rise to the non-satisfaction shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iii) shall not be available to any Party whose failure

to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such Legal Restraint; or

(iv) any Governmental Entity that must grant a Required Regulatory Approval or a Mitchell Plant Approval shall have denied such grant, and such denial shall have become final and non-appealable; provided, that the right to terminate this Agreement under this Section 8.1(b)(iv) shall not be available to any Party whose failure to fulfill any of its covenants or other agreements contained in this Agreement shall have been the primary cause of such denial.

(c) by Sellers, by written notice to Purchaser, if (i) the conditions set forth in Section 7.1 and Section 7.2 are satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing, but which are capable of being satisfied at the Closing if the Closing were to occur when required pursuant to Section 1.3(a)), (ii) Sellers deliver to Purchaser an irrevocable written notice on or after the date that the Closing is required to occur pursuant to Section 1.3(a) that all conditions set forth in Section 7.3 have been satisfied or waived as of such time (other than those conditions that by their nature are to be satisfied at the Closing but which are capable of being satisfied at the Closing if the Closing were to occur) and each Seller is ready, willing and able to consummate the Closing, and (iii) within two (2) Business Days after the delivery of such notice to Purchaser, Purchaser has failed to fulfill its obligation to pay the Closing Payment Amount in accordance with Section 1.2.

8.2 Notice of Termination. In the event of termination of this Agreement pursuant to Section 8.1, written notice of such termination shall be given by the terminating Party (or Parties) to the other Parties.

8.3 Termination Fee.

(a) In the event that each of: (i) this Agreement is terminated pursuant to (A) Section 8.1(b)(i) at a time when only the conditions (other than those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination) in Section 7.1(a) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval) or Section 7.1(b) have not been satisfied, (B) Section 8.1(b)(iii) (but only if the applicable Legal Restraint relates to a Required Regulatory Approval), (C) Section 8.1(b)(iv) (but only due to a denial of a Required Regulatory Approval) or (D) Section 8.1(c), (ii) the conditions in Section 7.1(a) or 7.1(b) failed to be satisfied other than as a result of Sellers' failure to perform in any material respect their obligations under Section 4.5 or otherwise under this Agreement, and (iii) at the time of such termination, all conditions set forth in Section 7.2(a) through Section 7.2 (e) (inclusive) shall have been satisfied or waived (except for (A) those conditions that by their nature are to be satisfied at the Closing, but which conditions would be capable of being satisfied if the Closing Date were the date of such termination or (B) those conditions that have not been satisfied as a result of a breach of this Agreement by Purchaser), then, subject to Section 8.3(b), Purchaser shall, by way of compensation, pay or cause to be paid to Sellers an aggregate amount equal to $65,000,000 (the "Termination Fee"). If the Termination Fee becomes due and payable in accordance with this Section 8.3(a), then such fee shall be paid in each case by wire transfer (to an account designated by Sellers) of immediately available funds (I) prior to or concurrently with such termination in the event of a termination by Purchaser or (II) no later than three (3) Business Days following such termination in the event of a termination by Sellers. In no event shall Purchaser be required to pay the Termination Fee other than in the circumstances described in this Section 8.3(a). In addition, Purchaser shall not be required to pay the Termination Fee on more than one occasion. The Parties acknowledge that the Termination Fee shall not constitute a penalty but is liquidated damages, in a reasonable amount that shall compensate Sellers for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this

Agreement, which amount would otherwise be impossible to calculate with precision. The Parties further acknowledge that the right of Sellers to receive the Termination Fee shall not limit or otherwise affect Sellers' right to seek specific performance of Purchaser prior to the termination of this Agreement as provided in Section 10.13, or their rights as otherwise set forth in this Article VIII, and that Sellers may pursue both a grant of specific performance under Section 10.13 prior to the termination of this Agreement and the payment of the Termination Fee under this Section 8.3(a) and, solely with respect to a Willful Breach by Purchaser, any other remedies available at law or in equity; provided, however, that under no circumstances shall Sellers (whether acting together or separately and whether in one Action or separate Actions) be entitled to receive more than one of (x) a grant of specific performance that results in a Closing, (y) the Termination Fee or (z) receipt of monetary damages relating to any breach of this Agreement prior to the Closing or the termination of this Agreement without achieving the Closing (which in no event shall exceed the Base Purchase Price). Except in the case of Willful Breach and subject to Section 9.2, in any circumstance in which Sellers receive the Termination Fee, as the case may be, pursuant to this Section 8.3(a), together with any applicable costs and expenses described in Section 8.3(b), receipt of such fee and costs shall be the sole and exclusive remedy of Sellers and their Affiliates and their respective Representatives against Purchaser and its Affiliates and Representatives for any loss suffered as a result of any breach of any representation, warranty, covenant or agreement in this Agreement or in connection with the transactions contemplated hereby, and upon receipt of the Termination Fee, together with the costs and expenses described in Section 8.3(b), none of the foregoing Persons shall have any further liability or obligation relating to or arising out of this Agreement or the transactions contemplated hereby, whether in equity or at Law, in contract, in tort or otherwise; provided, further, that if at any time any payment of the Termination Fee is rescinded or must otherwise be returned by Sellers upon the insolvency, bankruptcy or reorganization of Purchaser or Guarantor or otherwise, the Termination Fee shall be treated as having not been paid.

(b) In the event Sellers commence a proceeding in order to obtain (i) payment hereunder that results in a judgment against Purchaser for the amounts set forth in Section 8.3(a), or (ii) specific performance or other equitable relief that results in a judgment against Purchaser pursuant to Section 10.13, then in either case Purchaser shall also pay to Sellers their costs and expenses (including reasonable attorneys' fees and expenses) in connection with such proceeding, together with interest on the amounts due pursuant to Section 8.3(a) from the date such payment was required to be made until the date of payment at the prime lending rate as published in *The Wall Street Journal* in effect on the date such payment was required to be made.

8.4 Effect of Termination. In the event of termination of this Agreement by any Seller or Purchaser pursuant to Section 8.1, this Agreement shall terminate and become void and have no effect, and there shall be no liability on the part of any Party, except as set forth in Section 8.3 and the Confidentiality Agreement; provided, that termination of this Agreement shall not relieve any Party from liability for Willful Breach or Fraud (subject to Section 9.1). For purposes hereof, "Willful Breach" shall mean a breach that is a consequence of a deliberate act or deliberate failure to act undertaken by the breaching Party with the knowledge that the taking of, or failure to take, such act would cause the failure of the transactions contemplated by this Agreement to be consummated; provided that, without limiting the meaning of Willful Breach, the Parties acknowledge and agree that any failure by any Party to consummate the Sale after the applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale) shall constitute a Willful Breach of this Agreement by such Party. For the avoidance of doubt, (a) in the event that all applicable conditions to the Closing set forth in Article VII have been satisfied or waived (except for those conditions that by their nature are to be satisfied at the Closing, and which conditions would be capable of being satisfied at the time of such failure to consummate the Sale), but Purchaser or

any Seller fails to close for any reason, such failure to close shall be considered a Willful Breach by Purchaser or Sellers, as applicable, and (b) Purchaser acknowledges that the availability or unavailability of financing for the transactions contemplated by this Agreement shall have no effect on Purchaser's obligations hereunder. Notwithstanding anything to the contrary contained herein, the provisions of Section ~~2.20~~2.21, Section 3.10, Section 4.3(b), Section 4.7, Section 8.3, Article IX, Article X, and this Section 8.4 shall survive any termination of this Agreement.

8.5 Extension; Waiver. At any time prior to the Closing, either Sellers or Purchaser may (but shall not be required to) (a) extend the time for performance of any of the obligations or other acts of the other Party, (b) waive any inaccuracies in the representations and warranties of another Party contained in this Agreement or in any document delivered by another Party pursuant to this Agreement or (c) subject to applicable Law, waive compliance with any of the agreements or conditions of another Party contained in this Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by the Party granting such extension or waiver sent in accordance with Section 10.3 and referencing this Section of the Agreement.

ARTICLE IX

SURVIVAL AND REMEDIES

9.1 Survival of Representations, Warranties, Covenants and Agreements. The Parties hereto, intending to modify any applicable statute of limitations, agree that (a) subject to Section 9.2(a)(iv), representations and warranties in this Agreement and in any certificate delivered pursuant hereto shall terminate effective as of the Closing and shall not survive the Closing for any purpose, and thereafter there shall be no liability, except for Fraud, on the part of, nor shall any claim be made by, any Party or any of their respective Affiliates in respect thereof, and (b) after the Closing, there shall be no liability on the part of, nor shall any claim be made by, any Party or any of its respective Affiliates in respect of any covenant or agreement to be performed prior to the Closing. The rights provided under the R&W Policy will be Purchaser's sole recourse (even in the event the R&W Policy is never issued by an insurer, the R&W Policy is revoked, cancelled or modified in any manner after issuance for any reason, a claim is denied in whole or in part by any insurer under the R&W Policy for any reason, including due to exclusions from coverage thereunder) for any breach of any representation or warranty of any Seller contained in this Agreement, and Sellers shall have no liability for any breach of any representation or warranty contained in this Agreement. Sellers' aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed an amount equal to the Base Purchase Price, and Purchaser's aggregate liability arising out of or relating to any covenant or agreement in this Agreement shall not exceed the amount of the Base Purchase Price, provided, that the foregoing shall not limit any liability of Sellers or Purchaser under Section 9.2.

9.2 Indemnification.

(a) Subject to the provisions of this Article IX, effective as of and after the Closing, each Seller shall, jointly and not severally, indemnify, defend and hold harmless Purchaser and its Affiliates, and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Purchaser Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Purchaser Indemnified Parties, arising out of or resulting from any Liabilities of any Seller or any of its current, former or future Affiliates (i) to the extent, and solely to the extent, unrelated to the Business or the Acquired Companies, other than Liabilities to the extent relating to or arising in connection with any Contract between Sellers or any of their current, former or future Affiliates, on the one hand, and any Purchaser Indemnified Party, on the other hand, that is in effect at

any time following the Closing, (ii) for any Taxes of any Seller or of any other Person for which the Acquired Companies are liable, including pursuant to Treasury Regulation Section 1.1502-6 or any similar provision of state, local or non-U.S. Law, as a result of having been, prior to the Closing, a member of a consolidated, combined, unitary or similar group to the extent such Taxes relate to an event or transaction occurring before the Closing, (iii) relating to any Seller Benefit Plan or other employee benefit plan of the Seller or any of its Affiliates (other than employee benefit plans sponsored, maintained and contributed to exclusively by the Acquired Companies) and any Liabilities relating to or arising with respect to any pension or other employee benefit plan subject to Title IV of ERISA, (iv) for any failure of the representations and warranties in Section 2.8 to be true and correct in all respects as of the date of this Agreement and as of Closing solely to the extent with respect to the "Joint Use Operating Agreement" (as defined in Section 4.20(e) of the Seller Disclosure Letter), which shall be deemed to be a Material Contract hereunder (and such representations and warranties (solely to the extent with respect to such Joint Use Operating Agreement) shall be deemed to survive the Closing indefinitely) or any failure to comply with Section 4.1(a)(iii) (disregarding the word "materially" therein for these purposes) solely to the extent with respect to such Joint Use Agreement or (v) for any of the matters set forth on Section 9.2(a) of the Sellers Disclosure Letter.

(b) Subject to the other terms of this Agreement (including the provisions of this Article IX) and of the Ancillary Agreements, effective as of and after the Closing, Purchaser shall indemnify, defend and hold harmless each Seller and their Affiliates (which, for the avoidance of doubt, excludes the Acquired Companies and their respective subsidiaries), and their respective officers, directors, employees, agents, successors and assigns (collectively, the "Seller Indemnified Parties"), from and against any and all Losses incurred or suffered by any of the Seller Indemnified Parties, to the extent arising out of or resulting from any Liabilities of Purchaser or any of its Affiliates (including the Acquired Companies) to the extent, and solely to the extent, exclusively related to the Business (other than Liabilities to the extent relating to or arising in connection with (i) any criminal act of any Seller Indemnified Party, (ii) any criminal act of any Acquired Company or any of its officers, directors, employees, agents, successors or assigns that occurred prior to the Closing, (iii) any Contract between Purchaser or any of the Acquired Companies, on the one hand, and any Seller Indemnified Party, on the other hand, that is in effect at any time following the Closing or (iv) any Person, assets or Liabilities other than an Acquired Company or as otherwise expressly transferred to Purchaser pursuant to this Agreement).

(c) Procedures.

(i) A Person that may be entitled to be indemnified under this Agreement (the "Indemnified Party") shall promptly notify the Party or Parties liable for such indemnification (the "Indemnifying Party") in writing of any pending or threatened claim or demand that the Indemnified Party has determined has given or would reasonably be expected to give rise to such right of indemnification (including a pending or threatened claim or demand asserted by a third party against the Indemnified Party, such claim being a "Third Party Claim"), describing in reasonable detail (taking into account the information then available to the Indemnified Party) the facts and circumstances with respect to the subject matter of such claim or demand; provided, that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations under Section 4.12(a) and this Section 9.2 except to the extent that the Indemnifying Party is materially prejudiced by such failure (as determined by a court of competent jurisdiction), it being agreed that notices for claims in respect of a breach of a covenant or agreement must be delivered prior to the expiration of any applicable survival period specified in Section 9.1 for such covenant or agreement.

(ii) Upon receipt of a notice of a Third Party Claim for indemnity from an Indemnified Party pursuant to Section 4.12(a) and this Section 9.2, the Indemnifying Party will be entitled, by notice to the Indemnified Party delivered within twenty (20) Business Days of the receipt of notice of such Third Party Claim, to assume the defense and control of such Third Party Claim (at the expense of such Indemnifying Party); provided, that the Indemnifying Party shall not be entitled to assume the defense and control of such Third Party Claim, if (i) the Third Party Claim relates to or arises in connection with any criminal Action, (ii) the Third Party Claim seeks an injunction or equitable relief against the Indemnified Party or any of its Affiliates, or (iii) defense of the Third Party Claim would reasonably be expected to harm the Indemnified Party's reputation or business relationships,; provided, further, that if the Indemnifying Party assumes the defense and control of such Third Party Claim, the Indemnifying Party shall allow the Indemnified Party a reasonable opportunity to participate in the defense of such Third Party Claim with its own counsel and at its own expense except that the Indemnifying Party shall pay the reasonable and documented fees and expenses of such external separate counsel if representation of both the Indemnifying Party and the Indemnified Party by the same counsel would create a conflict of interest. If the Indemnifying Party does not assume the defense and control of any Third Party Claim pursuant to this Section 9.2(c)(ii), the Indemnified Party shall be entitled to assume and control such defense and the Indemnifying Party shall pay the reasonable and documented fees and expenses of external counsel retained by the Indemnified Party, but the Indemnifying Party may nonetheless participate in the defense of such Third Party Claim with its own counsel and at its own expense. Purchaser or Sellers, as the case may be, shall, and shall cause each of their respective Affiliates and Representatives to, reasonably cooperate with the Indemnifying Party in the defense of any Third Party Claim, including by furnishing books and records, personnel and witnesses, as appropriate for any defense of such Third Party Claim. If the Indemnifying Party has assumed the defense and control of a Third Party Claim, it shall be authorized to consent to a settlement or compromise of, or the entry of any judgment arising from, any Third Party Claim, in its sole discretion and without the consent of any Indemnified Party; provided, that such settlement or judgment does not involve any injunctive or other equitable relief or finding or admission of any violation of Law or admission of any wrongdoing by any Indemnified Party or any of its Affiliates and expressly unconditionally releases the Indemnified Party and its Affiliates from all Liabilities with respect to such Third Party Claim. No Indemnified Party will consent to the entry of any judgment or enter into any settlement or compromise with respect to a Third Party Claim without the prior written consent of the Indemnifying Party.

(d) Each of the parties hereto agrees to use its reasonable best efforts to mitigate its respective Losses to the extent required by applicable Law upon and after becoming aware of any event or condition that would reasonably be expected to give rise to any Losses that are indemnifiable hereunder and calculated after giving effect to any amounts covered by third parties, including insurance proceeds.

9.3 No Recourse. Notwithstanding anything that may be expressed or implied in this Agreement or any document or instrument delivered in connection herewith, by its acceptance of the benefits of this Agreement, each Party covenants, agrees and acknowledges that neither Party, its Affiliates nor any of its Representatives have any right of recovery under this Agreement, or any claim based on any liabilities, obligations, commitments created or arising in connection with this Agreement against any Person who is not a party to this Agreement or an Ancillary Agreement, as applicable, including the former, current or future equity holders, controlling persons, directors, officers, employees, agents, Affiliates, members, managers or general or limited partners of any other party to this Agreement or any Ancillary Agreement, as applicable, or any former, current or future stockholder, controlling person, director, officer, employee, general or limited partner, member, manager, Affiliate or agent of any of the foregoing (each, a "Non-Recourse Party"), whether by or through a claim by or on behalf of such Party against any Non-Recourse Party, by the enforcement of any assessment or by any legal or

equitable proceeding, by virtue of any statute, regulation or Law, or otherwise; provided, that nothing herein shall limit a Party's recourse or liability with regard to Fraud or limit Purchaser's right to enforce each Seller's obligations under Section 1.4.

9.4 Limitation on Consequential Damages. Notwithstanding anything contained in this Agreement or any Ancillary Agreement to the contrary, except with respect to Fraud, no Party shall have any liability pursuant to this Agreement or any Ancillary Agreement for (a) special, punitive, exemplary, incidental, consequential or indirect damages, (b) lost profits or lost business, loss of enterprise value, diminution in value, damage to reputation or loss of goodwill or (c) damages calculated based on a multiple of profits, revenue or any other financial metric hereunder, except, in each case of the foregoing clauses (a) and (b) if such damages, other than punitive or exemplary damages, were the reasonably foreseeable and probable consequence of such breach of this Agreement as of the time of such breach.

ARTICLE X

GENERAL PROVISIONS

10.1 Amendment. This Agreement may be amended, modified, or supplemented only by written agreement of Sellers and Purchaser.

10.2 Waivers and Consents. Except as otherwise provided in this Agreement, any failure of Sellers or Purchaser to comply with any obligation, covenant, agreement or condition herein may be waived by the Person entitled to the benefits thereof only by a written instrument signed by such Person granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement, or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. All remedies, either under this Agreement or by Law or otherwise afforded, shall be cumulative and not alternative.

10.3 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given (a) when received, if delivered personally, (b) when sent, if sent by electronic mail or (c) when received, if mailed by overnight courier or certified mail (return receipt requested), postage prepaid, in each case, to the Party being notified at such Party's address indicated below (or at such other address for a Party as is specified by like notice):

(a) If to Sellers:

American Electric Power Company, Inc.
1 Riverside Plaza
Columbus, OH 43215
Attention: Charles E. Zebula
Email: cezebula@aep.com
AEP Transmission Company, LLC
1 Riverside Plaza
Columbus, OH 43215
Attention: Stephan T. Haynes
Email: sthaynes@aep.com

with a copy (which shall not constitute notice) to:

Morgan, Lewis & Bockius LLP
Attn: John G. Klauberg
Michael E. Espinoza
101 Park Ave.
New York, NY 10178-0060
Email: john.klauberg@morganlewis.com
michael.espinoza@morganlewis.com

(b) If to Purchaser:

Liberty Utilities Co.
c/o Algonquin Power & Utilities Corp.
354 Davis Road, Suite 100
Oakville, Ontario, Canada L6J 2X1
Attention: Chief Legal Officer
Email: Jennifer.Tindale@APUCorp.com
notices@APUCorp.com
with a copy (which shall not constitute notice) to:

Simpson Thacher & Bartlett LLP 425 Lexington Avenue
New York, NY 10017
Attention: Eli Hunt
Email: Eli.Hunt@stblaw.com

10.4 Assignment. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of Sellers and Purchaser and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests, or obligations hereunder may be assigned by Sellers or Purchaser, without the prior written consent of Sellers (in the case of an assignment by Purchaser) or of Purchaser (in the case of assignment by Sellers); provided, that Purchaser may assign its rights and obligations hereunder to its lenders for collateral security purposes or, prior to the date any filings or notices are made to Governmental Entities with respect to any Required Regulatory Approval or any Mitchell Plant Approval pursuant to Section 4.5(a) (or otherwise to the extent such assignment would not adversely affect or materially delay any such Required Regulatory Approval or Mitchell Plant Approval), to an Affiliate without the prior written consent of Sellers, but such assignment shall not release Purchaser from its obligations hereunder.

10.5 No Third-Party Beneficiaries. Except for Sections 4.11 and 4.13 in each case which are intended to benefit, and to be enforceable by, the parties specified therein, this Agreement, together with the Ancillary Agreements and the Exhibits and Schedules hereto, are not intended to confer in or on behalf of any Person not a Party (and their successors and assigns) any rights, benefits, causes of action or remedies with respect to the subject matter or any provision hereof.

10.6 Expenses. Purchaser shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Required Regulatory Approvals or Additional Regulatory Filings and Consents and Sellers shall bear sole responsibility for all filing fees incurred in connection with any filings or submissions for obtaining the Mitchell Plant Approvals. Except as otherwise set forth in this Agreement, whether the transactions contemplated by this Agreement are consummated or not, all legal and other costs and expenses incurred in connection with this Agreement and the transactions contemplated by this Agreement shall be paid by the Party incurring such costs and expenses described in the immediately preceding sentence unless expressly otherwise

contemplated in this Agreement. Any of the foregoing costs and expenses incurred by any Acquired Company prior to the Closing Date shall be a cost and expense of Sellers and, to the extent not paid prior to the Closing, shall be included in the Transaction Expenses.

10.7 Governing Law. This Agreement (as well as any claim or controversy arising out of or relating to this Agreement or the transactions contemplated hereby) shall be governed by and construed in accordance with the Laws of the State of New York.

10.8 Severability. Any term or provision of this Agreement that is invalid or unenforceable in any situation in any jurisdiction shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation or in any other jurisdiction.

10.9 Entire Agreement. This Agreement shall be a valid and binding agreement of the Parties only if and when it is fully executed and delivered by Sellers and Purchaser, and until such execution and delivery no legal obligation shall be created by virtue hereof. This Agreement, the Confidentiality Agreement and the Ancillary Agreements, together with the Exhibits and Schedules hereto and thereto and the certificates and instruments delivered hereunder or in accordance herewith, embodies the entire agreement and understanding of Sellers and Purchaser in respect of the transactions contemplated by this Agreement. This Agreement, the Confidentiality Agreement and any currently effective Ancillary Agreements supersede all prior agreements and understandings between Sellers, on the one hand, and Purchaser, on the other hand, with respect to the matters contemplated hereby. Neither this Agreement, the Confidentiality Agreement nor any Ancillary Agreement shall be deemed to contain or imply any restriction, covenant, representation, warranty, agreement or undertaking of Sellers or Purchaser with respect to the transactions contemplated hereby or thereby other than those expressly set forth herein or therein or in any document required to be delivered hereunder or thereunder.

10.10 Delivery. This Agreement, and any certificates and instruments delivered hereunder or in accordance herewith, may be executed in multiple counterparts (each of which shall be deemed an original, but all of which together shall constitute one and the same instrument). Signatures to this Agreement transmitted by facsimile transmission, by electronic mail in "portable document format" (.pdf) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, shall have the same effect as physical delivery of the paper document bearing the original signature.

10.11 Waiver of Jury Trial. EACH OF THE PARTIES HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE ANCILLARY AGREEMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY. EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HERETO HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH PARTY WOULD NOT, IN THE EVENT OF ANY ACTION, SUIT OR PROCEEDING, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER AND CERTIFICATIONS IN THIS SECTION 10.11.

10.12 Submission to Jurisdiction. Sellers and Purchaser irrevocably agree that any Action arising out of or relating to this Agreement brought by a Party (or any of their respective successors or assigns) shall be brought and determined in any state or federal court sitting in the State of New York,

within the Borough of Manhattan, City of New York, and Sellers and Purchaser hereby irrevocably submit to the exclusive jurisdiction of the aforesaid courts for themselves and with respect to their property, generally and unconditionally, with regard to any such Action arising out of or relating to this Agreement and the transactions contemplated hereby. Sellers and Purchaser agree not to commence any Action relating thereto except in the courts described above in New York, other than Actions in any court of competent jurisdiction to enforce any judgment, decree or award rendered by any such court in New York as described herein. Sellers and Purchaser further agree that notice as provided herein shall constitute sufficient service of process and Sellers and Purchaser further waive any argument that such service is insufficient. Sellers and Purchaser hereby irrevocably and unconditionally waive, and agree not to assert, by way of motion or as a defense, counterclaim or otherwise, in any Action arising out of or relating to this Agreement or the transactions contemplated hereby, (a) any claim that it is not personally subject to the jurisdiction of the courts in New York as described herein for any reason, (b) that it or its property is exempt or immune from jurisdiction of any such court or from any legal process commenced in such courts (whether through service of notice, attachment prior to judgment, attachment in aid of execution of judgment, execution of judgment or otherwise) and (c) that (i) the Action in any such court is brought in an inconvenient forum, (ii) the venue of such Action is improper or (iii) this Agreement, or the subject matter hereof, may not be enforced in or by such courts.

10.13 Specific Performance. Sellers and Purchaser agree that irreparable damage would occur in the event that any of the provisions of this Agreement were not performed in accordance with their specific terms or were otherwise breached. Accordingly, Sellers and Purchaser shall be entitled to specific performance of the terms hereof, including an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions of this Agreement in any state or federal court sitting in the State of New York, this being in addition to any other remedy to which they are entitled at law or in equity. Sellers and Purchaser hereby further waive (a) any defense in any action for specific performance that a remedy at law would be adequate and (b) any requirement under any Law to post security as a prerequisite to obtaining equitable relief.

10.14 Disclosure Generally. Notwithstanding anything to the contrary contained in the Sellers Disclosure Letter or in this Agreement, the information and disclosures contained in any Sellers Disclosure Letter shall be deemed to be disclosed and incorporated by reference with respect to any other representation or warranty of Sellers if the applicability of such information and disclosure is reasonably apparent on its face. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to mean that such information is required to be disclosed by this Agreement. Such information and the dollar thresholds set forth herein shall not be used as a basis for interpreting the terms "material" or "Material Adverse Effect" or other similar terms in this Agreement. The fact that any item of information is disclosed in any Sellers Disclosure Letter shall not be construed to constitute an admission of any liability or obligation of any party to any third party, nor an admission to any third party against the interests of any or all of the parties.

10.15 Provision Respecting Legal Representation. Notwithstanding that Morgan Lewis has acted as legal counsel to the Acquired Companies prior to the Closing in connection with this Agreement and the transactions contemplated by this Agreement (the "Pre-Closing Engagement"), and recognizing that Morgan Lewis intends to act as legal counsel to Sellers and their respective Affiliates after the Closing, Purchaser hereby waives, on its own behalf, and agrees to cause its Affiliates (including the Acquired Companies after the Closing) to waive, any conflicts that may arise in connection with Morgan Lewis representing Sellers or any of their respective Affiliates after the Closing, as such representation may conflict with the Pre-Closing Engagement. In addition, all communications relating to the Pre-Closing Engagement and involving attorney-client confidences between Sellers, their respective Affiliates or the Acquired Companies and Morgan Lewis shall be deemed to be attorney-client

confidences that belong solely to Sellers and their respective Affiliates (and not the Acquired Companies). Accordingly, the Acquired Companies shall not, without the Sellers' consent, have access to the files of Morgan Lewis relating to the Pre-Closing Engagement. Without limiting the generality of the foregoing, upon and after the Closing, (a) Sellers and their respective Affiliates (and not the Acquired Companies) shall be the sole holders of the attorney-client privilege with respect to the Pre-Closing Engagement, and none of the Acquired Companies shall be a holder thereof, (b) to the extent that files of Morgan Lewis in respect of the Pre-Closing Engagement constitute property of the client, only Sellers and their respective Affiliates (and not the Acquired Companies) shall hold such property rights and (c) Morgan Lewis have no duty whatsoever to reveal or disclose any such attorney-client communications or files to any of the Acquired Companies by reason of any attorney-client relationship between Morgan Lewis and the Acquired Companies or otherwise.

10.16 Privilege. Purchaser, for itself and its Affiliates, and its and its Affiliates' respective successors and assigns, hereby irrevocably and unconditionally acknowledges and agrees that all attorney-client privileged communications between Sellers, the Acquired Companies and their respective current or former Affiliates or Representatives and their counsel, including Morgan Lewis, made before the consummation of the Closing to the extent relating to the negotiation, preparation, execution, delivery of this Agreement and the Ancillary Agreements and the consummation of the transactions contemplated hereby and thereby which, immediately before the Closing, would be deemed to be privileged communications and would not be subject to disclosure to Purchaser (or would otherwise not be disclosable to Purchaser without losing any such right of privilege) in connection with any Action arising out of or relating to this Agreement or otherwise, shall continue after the Closing to be privileged communications with such counsel and neither Purchaser nor any of its Affiliates (including after the Closing, the Acquired Companies) shall seek to obtain the same by any process on the grounds that the privilege attaching to such communications belongs to Purchaser or the Acquired Companies or on any other grounds.

10.17 Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED HEREIN OR IN THE ANCILLARY AGREEMENTS, SELLERS EXPRESSLY DISCLAIM ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF THE ASSETS OR OPERATIONS OF THE ACQUIRED COMPANIES OR THE PROSPECTS (FINANCIAL AND OTHERWISE), RISKS AND OTHER INCIDENTS OF THE ACQUIRED COMPANIES AND SELLERS SPECIFICALLY DISCLAIM ANY REPRESENTATION OR WARRANTY OF MERCHANTABILITY, USAGE, SUITABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO SUCH ASSETS, OR ANY PART THEREOF, OR AS TO THE WORKMANSHIP THEREOF, OR THE ABSENCE OF ANY DEFECTS THEREIN, WHETHER LATENT OR PATENT, OR COMPLIANCE WITH ENVIRONMENTAL REQUIREMENTS, OR AS TO THE CONDITION OF, OR THE RIGHTS OF THE ACQUIRED COMPANIES IN, OR ITS TITLE TO, ANY OF ITS ASSETS, OR ANY PART THEREOF. EXCEPT AS EXPRESSLY PROVIDED HEREIN OR IN THE RELATED AGREEMENTS, NO MATERIAL OR INFORMATION PROVIDED BY OR COMMUNICATIONS MADE BY SELLERS OR THE ACQUIRED COMPANIES OR ANY OF THEIR RESPECTIVE REPRESENTATIVES SHALL CAUSE OR CREATE ANY WARRANTY, EXPRESS OR IMPLIED, AS TO THE CONDITION, VALUE OR QUALITY OF SUCH ASSETS.

10.18 Definitions. For purposes of this Agreement, each capitalized term has the meaning given to it, or specified, in Appendix I.

10.19 Other Interpretive Matters. Unless otherwise expressly provided, for purposes of this Agreement, the following rules of interpretation apply.

(a) Appendices, Exhibits and Schedules. Unless otherwise expressly indicated, any reference in this Agreement to an "Exhibit" or "Schedule" refers to an Exhibit or Schedule to this Agreement. The Exhibits and Schedules to this Agreement are hereby incorporated and made a part hereof as if set forth in full herein and are an integral part of this Agreement. Any capitalized terms used in any Exhibit or Schedule but not otherwise defined therein are defined as set forth in this Agreement. In the event of conflict or inconsistency, this Agreement shall prevail over any Exhibit or Schedule.

(b) Time Periods. When calculating the period of time before which, within which, following or after which any act is to be done or step taken pursuant to this Agreement, the date that is the reference date in calculating such period shall be excluded. If the last day of such period is a non-Business Day, the period in question shall end on the next succeeding Business Day.

(c) Gender and Number. Whenever the context requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular includes the plural, and the plural includes the singular.

(d) Certain Terms. The words such as "herein," "hereinafter," "hereof," and "hereunder" refer to this Agreement (including the Exhibits and Schedules to this Agreement) as a whole and not merely to a subdivision in which such words appear unless the context otherwise requires. The word "including" or any variation thereof means "including, without limitation" and does not limit any general statement that it follows to the specific or similar items or matters immediately following it. The words "to the extent" when used in reference to a liability or other matter, means that the liability or other matter referred to is included in part or excluded in part, with the portion included or excluded determined based on the portion of such liability or other matter exclusively related to the subject or period. The word "or" shall be disjunctive but not exclusive. A reference to any Party or to any party to any other agreement or document shall include such party's successors and permitted assigns. A reference to any legislation or to any provision of any legislation shall include any amendment to, and any modification or reenactment thereof, any legislative provision substituted therefor and all regulations and statutory instruments issued thereunder or pursuant thereto (provided, that for purposes of any representations and warranties contained in this Agreement that are made as of a specific date, references to any statute shall be deemed to refer to such statute and any rules or regulations promulgated thereunder as amended through such specific date). The phrase "ordinary course of business" refers to the ordinary course of business of the Acquired Companies and not of Sellers and their Affiliates generally. References to "$" shall mean U.S. dollars and references to "written" or "in writing" include in electronic form. Any reference to "days" shall mean calendar days unless Business Days are expressly specified. Any reference to information "made available" or "provided" to Purchaser by Sellers or the Acquired Companies means that such information has been provided to Purchaser, its counsel or other Representatives through access to the "Project Nickel" online data room maintained by Sellers and hosted by Donnelly Financial Solutions in connection with the transactions contemplated by this Agreement, with such information and access provided at least three (3) Business Days prior to the date hereof.

(e) Headings. The division of this Agreement into Articles, Sections, and other subdivisions, and the insertion of headings are for convenience of reference only and do not affect, and shall not be utilized in construing or interpreting, this Agreement. All references in this Agreement to any "Section" are to the corresponding Section of this Agreement unless otherwise specified.

(f) Joint Participation. Each Party acknowledges that it and its attorney have been given an equal opportunity to negotiate the terms and conditions of this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting Party or any similar rule operating against the drafter of an agreement shall not be applicable to the construction or interpretation of this Agreement.

(g) Accounting Terms. All accounting terms used herein and not expressly defined herein shall have the meanings given to them under GAAP or FERC Accounting Requirements, as applicable.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been signed by or on behalf of Sellers and Purchaser as of the date first set forth above.

AMERICAN ELECTRIC POWER COMPANY, INC.

By: _____

Name:

Title:

AEP TRANSMISSION COMPANY, LLC

By: _____

Name:

Title:

LIBERTY UTILITIES CO.

By: _____

Name:

Title:

APPENDIX I

DEFINITIONS

1. Defined Terms. For the purposes of this Agreement, the following terms shall have the following meanings:

"Acquired Company Employees" shall mean (a) all employees of an Acquired Company as of the Effective Date who are included on the list of Acquired Company Employees set forth on Section 2.14(a) of the Sellers Disclosure Letter (b) any current employee of AEPSC or Appalachian Power Company in the positions set forth on Section 5.19 of the Sellers Disclosure Letter (a "Support Employee") who shall become an employee of Kentucky Power prior to the Closing Date as contemplated by Section 5.19 and (c) any other employee who is hired by, or transferred to, an Acquired Company prior to the Closing Date; provided, however, that "Acquired Company Employees" shall not include any Mitchell Employee.

"Action" shall mean any claim, notice of claim, notice of violation, action, audit, demand, suit, prosecution, arbitration, litigation, proceeding, case, hearing or investigation (including any state regulatory proceeding) by or before any Governmental Entity, whether civil, criminal, administrative, regulatory or otherwise, and whether at law or in equity.

"AEPSC" shall mean American Electric Power Service Corporation, a New York corporation and an Affiliate of Sellers.

"Affiliate" shall mean, with respect to any Person, any other Person that directly or indirectly, controls, is controlled by, or is under common control with such Person. As used in this definition, "control" (including, with its correlative meanings, "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of securities or partnership or other ownership interests, by contract or otherwise; provided that, from and after the Closing, (a) neither of the Acquired Companies shall be considered an Affiliate of Sellers or any of Sellers' Affiliates and (b) none of Sellers nor any of Sellers' Affiliates shall be considered an Affiliate of either of the Acquired Companies.

"Ancillary Agreements" shall mean the Transition Services Agreement, Purchaser Guaranty, and the Compliance Agreement.

"Base Purchase Price" shall mean $2,846,000,000.

"Benefit Plan" shall mean each "employee benefit plan" as defined in Section 3(3) of ERISA, and all other retirement, pension, deferred compensation, bonus, incentive, severance, stock purchase, stock option, phantom stock, equity, employment, profit sharing, retention, stay bonus, change of control and other benefit plans, programs, agreements or arrangements.

"Big Sandy" shall mean the Big Sandy Power Plant, a natural gas fired power plant, located in Louisa, Kentucky.

"Business" means the business and operations of the Acquired Companies as currently conducted.

"Business Day" shall mean any day other than Saturday, Sunday, or any other day on which the Federal Reserve Bank of New York or banking institutions in Toronto, Ontario are closed.

"Capital Expenditures Amount" shall mean the total amount of all capital expenditures (including external and internal capitalized costs) both paid or payable (and if payable, reflected in Net Working Capital) and incurred by the Acquired Companies during the period beginning on July 1, 2021 and ending as of the Reference Time that are properly characterized as capital expenditures and made in accordance with Good Utility Practice, calculated in accordance with the Accounting Principles, applied in a manner consistent with the principles, methodologies and adjustments used in connection with the preparation of Appendix II. Notwithstanding anything to the contrary in this Agreement, amounts paid or payable or incurred by any Acquired Company to purchase any leased property, plant or equipment, including amounts used to purchase property, plant or equipment under any Master Lease, shall not be deemed a "Capital Expenditures Amount"; provided that any purchase amounts actually paid by Kentucky Power prior to the Reference Time pursuant to Section 4.19 shall be considered capital expenditures for purposes of calculating the "Capital Expenditures Amount."

"CFIUS" means the Committee on Foreign Investment in the United States.

"CFIUS Clearance" means that that: (a) (i) Purchaser has received written notice from CFIUS that the review period, or, if applicable, investigation period pursuant to the DPA of the transactions contemplated by this Agreement has been concluded, and (ii) CFIUS has determined that there are no unresolved national security concerns with respect to the transactions contemplated by this Agreement and advised that action pursuant to the DPA, and any investigation related thereto, has been concluded with respect to such transactions; (b) Purchaser has received written notice from CFIUS that CFIUS has concluded that the transactions contemplated by this Agreement are not "covered transactions" pursuant to the DPA and not subject to review under applicable Law; (c) CFIUS has sent a report to the President of the United States requesting the President's decision on the CFIUS notice submitted by the Parties and either (x) the period pursuant to the DPA during which the President may announce his decision to take action to suspend, prohibit or place any limitations on the transactions contemplated hereby has expired without any such action being threatened, announced or taken or (y) the President of the United States has announced a decision not to take any action to suspend, prohibit or place any limitations on the transactions contemplated hereby; or (d) after submission of a declaration by the Parties with respect to the transactions contemplated by this Agreement pursuant to the DPA, that CFIUS, pursuant to 31 C.F.R. § 801.407(a)(2), informs the Parties that CFIUS is not able to complete action on the basis of the declaration and that the Purchaser in its sole discretion may file a written notice to seek written notification from CFIUS that CFIUS has concluded all action under the CFIUS Regulations with respect to the transactions contemplated by this Agreement.

"Change in Control Prepayment Event" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Claim" shall mean any demand, claim, action, legal proceeding (whether at law or in equity), investigation, arbitration, hearing, audit or similar proceeding.

"Closing Cash" shall mean the amount of cash and cash equivalents (including marketable securities) of the Acquired Companies, excluding any restricted cash and any insurance or third party indemnification or similar proceeds held as cash to the extent not yet applied to restore (or reimburse for the restoration) prior to the Reference Time of damage, condemnation, liability or casualty in respect of any asset or liability of the Acquired Companies that would not be included in Net Working Capital, in each case, as of the Reference Time, determined in accordance with the Accounting Principles. For the avoidance of doubt, Closing Cash will be calculated net of issued but uncleared checks and drafts and

will include checks, other wire transfers and drafts deposited or available for deposit for the account of the Acquired Companies once cleared.

"Closing Indebtedness" shall mean the aggregate amount of Indebtedness of the Acquired Companies (without duplication), and all accrued and unpaid interest thereon, as of the Reference Time, determined in accordance with the Accounting Principles, excluding trade accounts payable or other liabilities included in Net Working Capital or Transaction Expenses.

"Closing Payment Amount" shall mean the Base Purchase Price *plus* (a) the amount of the Estimated Closing Cash *plus* (b) the amount, if any, by which the Estimated Net Working Capital exceeds the Target Net Working Capital *minus* (c) the amount, if any, by which the Estimated Net Working Capital is less than the Target Net Working Capital *minus* (d) the amount of the Estimated Closing Indebtedness *plus* (e) the amount, if any, by which the Estimated Capital Expenditures Amount exceeds the Forecasted Capital Expenditures Amount *minus* (f) the amount, if any, by which the Estimated Capital Expenditures Amount is less than the Forecasted Capital Expenditures Amount *minus* (g) the amount of the Estimated Transaction Expenses (the amounts described in (a) through (g) the "Closing Payment Adjustment").

"COBRA Continuation Coverage" shall mean the continuation of group health plan coverage required under Sections 601 through 608 of ERISA, and Section 4980B of the Code and any comparable continuation of group health plan coverage required by applicable state or local Law.

"Code" shall mean the U.S. Internal Revenue Code of 1986, as amended.

"Collective Bargaining Agreements" shall mean each collective bargaining agreement with any labor union representing Acquired Company Employees as set forth on Section 2.14(b) of the Sellers Disclosure Letter.

"Commercial Hedge" means any forward, futures, swap, collar, put, call, floor, cap, option, financial transmission right or other Contracts that are intended to benefit from or reduce or eliminate the risk of fluctuations in the price of commodities, including electric power, in any form, including energy, capacity or any ancillary services, gas, coal, oil or other commodities, in each case, which are intended to be settled financially.

"Compliance Agreement" means the compliance agreement to be executed by AEP, Kentucky Power, Successor Operator and Purchaser and dated as of the Closing Date, substantially in the form attached hereto as Exhibit D.

"Confidentiality Agreement" shall mean the Confidentiality and Non-Disclosure Agreement, dated April 26, 2021, by and between AEP and Purchaser.

"Confidential Information" shall have the meaning ascribed to such term in the Confidentiality and Non-Disclosure Agreement.

"Continuing Employees" shall mean Continuing Non-Covered Employee and Continuing Covered Employees.

"Contract" shall mean any written contract, lease, license, evidence of Indebtedness, mortgage, indenture, purchase order, binding bid, letter of credit, security agreement or other written, legally binding agreement.

"Controlled Group Liability" means any and all Liabilities (a) under Title IV of ERISA, (b) under Sections 206(g), 302 or 303 of ERISA, (c) under Sections 412, 430, 431, 436 or 4971 of the Code, and (d) as a result of the failure to comply with the continuation of coverage requirements of Section 601 et seq. of ERISA and Section 4980B of the Code.

"Covered Employees" shall mean each Acquired Company Employee who is covered under a Collective Bargaining Agreement.

"COVID-19 Measures" means any reasonable actions or measures taken to comply with any applicable Laws, recommendations, guidelines and directives issued by any applicable Governmental Entity in response to the COVID-19 Pandemic.

"COVID-19 Pandemic" means the epidemic, pandemic or disease outbreak associated with the COVID-19 or SARS-CoV-2 virus (or any mutation or variation thereof).

"Debt Agreements" means the (a) Bond Purchase and Continuing Covenants Agreement between Kentucky Power and Key Government Finance, Inc., dated as of June 1, 2017, (b) Amended and Restated Credit Agreement among Kentucky Power, the lenders party thereto and Fifth Third Bank, dated as of October 26, 2018, (c) Credit Agreement among Kentucky Power, the lenders party thereto and Key Bank National Association, dated as of March 6, 2020, (d) Credit Agreement among Kentucky Power, the lenders party thereto and Canadian Imperial Bank of Commerce, New York Branch, dated as of June 17, 2021, (e) Senior Note Purchase Agreements and Senior KPCo Notes, (f) Utility Money Pool Agreement and (g) TransCo Intercompany Notes.

"Defendants" shall mean the defendants as defined in the NSR Consent Decree.

"DPA" means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. §4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Parts 800 and 802.

"Easements" shall mean all easements, railroad crossing rights, rights-of-way, leases for rights-of-way, and similar use and access rights.

"Encumbrances" shall mean any mortgages, deeds of trust, liens, pledges, claims, charges, encumbrances, easements, servitudes, security interests or limitations on receipt of income.

"Environment" shall mean all or any of the following media: soil, land surface and subsurface strata, surface waters (including navigable waters, streams, ponds, drainage basins, and wetlands), groundwater, drinking water supply, stream sediments, ambient air (including the air within buildings), plant and animal life, and any other natural resource.

"Environmental Claims" shall mean any and all Actions arising under or pursuant to any Environmental Laws or Environmental Permits, or arising from the presence, Release, or threatened Release into the Environment of any Hazardous Materials, including any and all claims by any Governmental Entity or by any Person for enforcement, cleanup, remediation, removal, response, remedial or other actions or damages, contribution, indemnification, cost recovery, compensation, or injunctive relief pursuant to any Environmental Law.

"Environmental Laws" shall mean the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251 et seq.; the Clean Air Act, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil

Pollution Act, 33 U.S.C. § 2701 et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001 et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; the Hazardous Materials Transportation Act of 1975, 49 U.S.C. § 5101 et seq.; and all other Laws (including implementing regulations) of any Governmental Entity addressing pollution or protection of the environment, or of human health or safety (as affected by any harmful or deleterious substances).

"Environmental Permits" shall mean all permits, registrations, certifications, licenses, franchises, exemptions, approvals, consents, waivers, water rights or other authorizations of Governmental Entities under applicable Environmental Laws.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974.

"ERISA Affiliate" shall mean any Person, entity, trade or business that is a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 400l(b)(l) of ERISA that includes any Seller, or that is a member of the same "controlled group" as a Seller pursuant to Section 4001(a), or that, together with any Seller would be treated as a single employer under Section 414 of the Code.

"Estimated Capital Expenditures Amount" shall mean the Capital Expenditures Amount reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Cash" shall mean the Closing Cash reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Closing Indebtedness" shall mean the Closing Indebtedness reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Net Working Capital" shall mean an amount, which may be positive or negative, equal to the amount of Net Working Capital set forth in the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Estimated Transaction Expenses" shall mean the Transaction Expenses reflected on the Estimated Closing Statement prepared in accordance with Section 1.4(b).

"Existing Mitchell Plant Operating Agreement" shall mean that certain operating agreement for the Mitchell Plant, dated as of December 31, 2014, as amended, among Kentucky Power, Wheeling, and AEPSC, as agent.

"FERC" means the Federal Energy Regulatory Commission.

"FERC Accounting Requirements" means the accounting requirements of FERC, including with respect to the Uniform System of Accounts, established by FERC under the FPA.

"Final Capital Expenditures Amount" shall mean the Capital Expenditures Amount, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Cash" shall mean, the Closing Cash, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Closing Indebtedness" shall mean the Closing Indebtedness, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Net Working Capital" shall mean the amount of Net Working Capital, which may be positive or negative, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Final Order" shall mean an Order by the relevant Governmental Entity that (a) has not been reversed, stayed, enjoined, set aside, annulled or suspended and is in full force and effect, (b) with respect to which, if applicable, any mandatory waiting period prescribed by Law before the transactions contemplated hereby may be consummated has expired or been terminated and (c) as to which all conditions to the consummation of the transactions contemplated hereby prescribed by Law have been satisfied.

"Final Transaction Expenses" shall mean the Transaction Expenses, if any, as set forth in the Final Closing Statement as prepared and finalized in accordance with Sections 1.5 and 1.6.

"Forecasted Capital Expenditures Amount" shall mean the total amount of all forecasted capital expenditures for the Acquired Companies, as set forth on Appendix III, during the period beginning on July 1, 2021 and ending as of the Reference Time taking the sum of the total consolidated amounts forecast for each month during such period set forth on Appendix III (with the forecasted amount for the month in which the Closing Date occurs being prorated based on the number of days in such month prior to and including the date that includes the Reference Time divided by the number of days in such month).

"FPA" means the Federal Power Act.

"Fraud" shall mean intentional fraud in the making of a representation or warranty contained in Article II or Article III and requires that: (a) the party to be charged with such fraud made a false representation of material fact in Article II or Article III (including any "bringdown" or other confirmation with respect to any such representation or warranty); (b) such party had actual knowledge that such representation was false when made and acted with scienter; (c) the false representation caused the party to whom it was made, in reasonable reliance upon such false representation and with ignorance as to the falsity of such representation, to take or refrain from taking action; and (d) the party to whom the false representation was made suffered any Loss by reason of such reliance. "Fraud" expressly excludes any other claim of fraud that does not include the elements set forth in this definition, including equitable fraud, promissory fraud, unfair dealings fraud, negligent or reckless misrepresentation or any similar theory.

"GAAP" shall mean generally accepted accounting principles in the United States, consistently applied throughout the periods involved.

"Good Utility Practice" shall mean the practices, methods and acts (a) engaged in or approved by a significant portion of the electric generating, transmission or distribution industries in the United States during the relevant time period or (b) that, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, are reasonably expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, environmental protection, economy and expedition; provided that Good Utility Practice is not intended to be limited to optimum practices, methods or acts to the exclusion of all others but rather is intended to include a spectrum of acceptable practices, methods or acts generally accepted in the geographic location of the performance of such practice, method or act during the relevant period in light of the circumstances.

"Governmental Entity" shall mean any court, tribunal, arbitrator, authority, agency, commission, official or other instrumentality of the United States, Canada or any state, provincial, county, city or other political subdivision or similar governing entity, and including any governmental, quasi-governmental or

non-governmental entity administering, regulating or having general oversight over coal, gas or power markets.

"Hazardous Material" shall mean: any chemicals, materials, derivatives, compounds, substances, or wastes which are now or hereafter defined or regulated as, or included in the definition of, a "hazardous substance," "hazardous material," "hazardous waste," "solid waste," "toxic substance," "extremely hazardous substance," "pollutant," "contaminant," or any other words of similar import under applicable Environmental Laws or any other words of similar meaning, and including any petroleum or petroleum product, asbestos or asbestos containing material, radon, polychlorinated biphenyls, per- and polyfluoroalkyl substances and 1,4-dioxane.

"HSR Act" shall mean the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

"Income Taxes" shall mean any federal, state, local or non-U.S. tax based on or measured by reference to net income.

"Indebtedness" shall mean, with respect to a Person, without duplication: (a) any indebtedness for borrowed money, whether current, short-term or long-term, secured or unsecured, or other Liabilities evidenced by a note, bond, debenture or similar instruments; (b) any Liabilities in respect of commodity, price, currency or interest rate hedging arrangements, or other financial hedging or derivative contracts; (c) any reimbursement Liabilities in respect of letters of credit, performance bonds, bank guarantees, bankers' acceptances, surety or other similar instruments, that have been drawn; (d) any obligations issued or assumed as the deferred purchase price of any property or services (other than trade credit incurred in the ordinary course of business); (e) any Tax Liability Amount; (f) any dividends declared but not yet paid; (g) any unpaid Liabilities with respect to severance compensation; (h) any Liabilities not incurred in the ordinary course that are secured by any Encumbrance (other than any Permitted Encumbrance); (i) use tax reserves and any additional use tax liability in connection with, and limited to, the sales and use tax audit in Kentucky that is ongoing as of the Effective Date; (k) any accrued interest, premiums (including make-whole premiums), penalties, termination fees or breakage fees or similar Liabilities in respect of any Liabilities of the types described in the foregoing clauses (a) through (i); and (m) any guarantee by such Person of any Liabilities of another Person of the types described in the foregoing clauses (a) through (l).

"Intellectual Property" shall mean any and all of the following in any jurisdiction throughout the United States: (a) trademarks, trade names, service marks and the goodwill connected with the use of any symbolized by the foregoing; (b) patents; (c) copyrights and works of authorship, including rights in software; (d) trade secrets and confidential know-how; (e) rights in databases and compilations of data; (f) all other intellectual and industrial property rights and assets of a similar nature; and (g) any registrations or applications for registration of any of the foregoing.

"Interim Period" shall mean the period beginning on the Effective Date and ending on the Closing Date.

"IRS" shall mean the U.S. Internal Revenue Service.

"Knowledge of Purchaser" shall mean the actual knowledge of the Persons set forth on Section A(i) of the Sellers Disclosure Letter.

"Knowledge of Sellers" shall mean the actual knowledge of the following Persons set forth on Section A(ii) of the Sellers Disclosure Letter.

"KPSC" shall mean the Kentucky Public Service Commission or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

"Law" shall mean all laws (including common law), statutes, rules, regulations, ordinances, Orders, Permits and other pronouncements having the effect of law of any Governmental Entity.

"Liability" shall mean all Indebtedness, obligations and other liabilities of any nature, whether absolute, accrued, matured, contingent (or based upon any contingency), known or unknown, fixed or otherwise, or whether due or to become due.

"Licensed Intellectual Property Rights" means all Intellectual Property that is owned by a third Person and that the Acquired Companies use or hold for use pursuant to a Contract set forth on Section 2.8(a)(xvi) of the Sellers Disclosure Letter, whether or not used by the Acquired Companies as of the Closing Date.

"Loss" shall mean any and all Liabilities, damages, claims, fines, penalties, deficiencies, losses and expenses (including court costs, reasonable fees of attorneys, accountants and other experts or other reasonable expenses of litigation or other proceedings or any claim, default or assessment), to the extent not subject to recovery in customer rates.

"Material Adverse Effect" shall mean any fact, circumstance, effect, change, event or development (each an "Effect" and, collectively, "Effects") that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on (a) the business, assets, results or financial condition of the Acquired Companies, taken as a whole or (b) the ability of the Sellers to perform their obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis; provided, however, that in the case of clause (a), none of the following Effects occurring after the date hereof shall be taken into account, individually or in the aggregate, in determining whether there has been a Material Adverse Effect: (i) the announcement or pendency of this Agreement and the transactions contemplated hereby (provided that the exception in this clause (i) shall not be deemed to apply to references to "Material Adverse Effect" in Section 2.4); (ii) any action taken by Purchaser, Sellers or the Acquired Companies in accordance with this Agreement to obtain any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent and the results of such action, including any Effect resulting from any term or condition in any Required Regulatory Approval, Mitchell Plant Approval or Additional Regulatory Filing and Consent or any assertion by a Governmental Entity that any approval (other than the Required Regulatory Approvals and the Mitchell Plant Approvals) is required from such Governmental Entity; (iii) any failure in itself to meet any financial projections or forecasts or estimates of revenues, earnings or other financial metrics for any period, including forecasted electricity demand (provided that the underlying causes for such failure may be taken into account); (iv) any changes, circumstances or effects resulting from or relating to changes or developments in the international, national or regional economies, financial markets, capital markets or commodities markets, including changes in interest rates or exchange rates, or supply markets, including electric power or fuel and water, as applicable, used in connection with the business of the Acquired Companies; (v) any change in international, national, regional or local regulatory, political or legislative conditions generally, including the outbreak or escalation of hostilities or any acts of war, sabotage or terrorism; (vi) any hurricane, tornado, tsunami, flood, earthquake or other natural or manmade disaster or weather-related event, circumstance or development or acts of God; (vii) any epidemic, pandemic or disease outbreak (including the COVID-19 Pandemic); (viii) any change after the Effective Date in applicable Law, regulation or GAAP or FERC Accounting Requirements (or authoritative interpretation thereof); (ix) any Effect arising after the Effective Date generally affecting the electric generating, transmission or distribution industries (including, in each case, any general changes in the operations thereof) or the international, national or regional wholesale or retail markets for

electric power, which do not have a disproportionate effect (relative to other industry participants) on the Acquired Companies; and (x) any new power plant entrants and their effect on pricing or transmission; provided, further, that with respect to clauses (iv) through (x), such Event shall not be excluded to the extent it disproportionately affects the Acquired Companies, taken as a whole, as compared to other participants in the electric generating, transmission or distribution industries.

"Mitchell" shall mean the Mitchell Power Generation Facility, a coal fired power plant located in Moundsville, West Virginia, consisting of two (2) coal-fired generating units, each having a nominal nameplate capacity of 800MW, and associated plant, equipment, vehicles, vessels and real estate, and including all electrical or thermal devices, and related structures and connections or common facilities that are located at the plant site and used for the production of power and the transportation and handling of fuel for the benefit of the Owners.

"Mitchell Interest" shall mean the fifty percent (50%) undivided interest in Mitchell owned by Kentucky Power.

"Mitchell Plant Approvals" shall mean the approvals set forth on Section A(iv) of the Sellers Disclosure Letter.

"Mitchell Plant O&M Agreement" shall mean the operations and maintenance agreement to be executed by Kentucky Power and Successor Operator and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit C.

"Mitchell Plant Ownership Agreement" shall mean the ownership agreement to be executed by Kentucky Power, Wheeling and AEPSC and dated as of or prior to the Closing Date, in the form consistent with the Mitchell Plant Approvals, the proposed form of which to be filed with the applications for the Mitchell Plant Approvals is attached hereto as Exhibit B.

"Net Working Capital" shall mean the net working capital of the Acquired Companies as of the Reference Time calculated on a consolidated basis in accordance with the methodologies, principles and adjustments as set forth in the illustrative example in Appendix II. For the avoidance of doubt, (i) the Net Working Capital shall be decreased by the aggregate amount of Transaction Expenses, (ii) no Income Tax assets or Income Tax liabilities or deferred Tax liabilities or deferred Tax assets shall be included in the calculation of Net Working Capital and (iii) no item to the extent included in Indebtedness shall be included in the calculation of Net Working Capital.

"Non-Covered Employees" shall mean each Acquired Company Employee that is not a Covered Employee.

"NSR Consent Decree" shall mean the Consent Decree entered in United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-99-1182 and C2-99-1250 and United States, et al. v. American Electric Power Service Corp., et al., Civil Action Nos. C2-04-1098 and C2-05-360, and all amendments or modifications thereto.

"Order" shall mean any charge, decree, ruling, determination, directive, award, order, judgment, writ, injunction or stipulation of a Governmental Entity.

"Organizational Documents" shall mean, with respect to any Person, (a) the articles or certificate of formation, incorporation or organization (or the equivalent organizational documents) of such Person

and (b) the bylaws or limited liability company agreement (or the equivalent governing documents) of such Person.

"Owned Intellectual Property" shall mean Intellectual Property owned or purported to be owned by the Acquired Companies.

"Permits" shall mean all licenses, permits, franchises, certificates, approvals, registrations, authorizations, consents or Orders of, obtained from, or issued by any Governmental Entity (other than the Required Regulatory Approvals, the Mitchell Plant Approvals and Environmental Permits).

"Permitted Encumbrances" shall mean (a) statutory Encumbrances of landlords' and mechanics', carriers', workmen's, repairmen's, warehousemen's, materialmen's or other like Encumbrances arising or incurred in the ordinary course of business, (b) Encumbrances arising under original purchase price conditional sales contracts and equipment leases with third parties entered into in the ordinary course of business, (c) Encumbrances for Taxes, assessments or other governmental charges or levies that are not due or payable or that are being contested by appropriate Actions by one or both Sellers or that may thereafter be paid without material penalty and for which adequate reserves have been established, (d) Encumbrances disclosed on or reflected in the Acquired Companies' Financial Statements, (e) with respect to real property, defects or imperfections of title not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (f) restrictions under the leases, subleases, Easements and similar agreements with respect to the Real Property, none of which materially interferes with the use or value of the underlying property or are violated in any material respect by the current use of the real property, as a whole, (g) any Easements, covenants, rights-of-way, restrictions of record and other similar charges not materially interfering with the ordinary conduct of the business of the Acquired Companies, taken as a whole, (h) any conditions or Encumbrances that would be shown by a current, accurate survey or physical inspection of any Real Property, (i) zoning, entitlement, land use, environmental, building and other similar restrictions, none of which materially interferes with the ordinary conduct of the business of the Acquired Companies or are violated in any material respect, as a whole, (j) Encumbrances that have been placed by any developer, landlord or other third party on property owned by third parties over which an Acquired Company has easement rights and subordination or similar agreements relating thereto, not materially interfering with the ordinary conduct of the business of the Acquired Companies, as a whole, (k) Encumbrances incurred or deposits made in connection with workers' compensation, unemployment insurance or other types of social security, (l) all rights of any Person under condemnation, eminent domain or similar proceedings, which are pending or threatened prior to Closing, (m) all Encumbrances arising under approvals obtained by an Acquired Company and related to the business of an Acquired Company that have been issued by any Governmental Entities, (n) Encumbrances arising under any lease or sublease for Leased Real Property, (o) nonexclusive licenses to Intellectual Property granted in the ordinary course of business, (p) recorded Encumbrances of record affecting real property, (q) the rights of the Parties pursuant to this Agreement and any other instruments to be delivered hereunder, (r) all rights of customers, suppliers, subcontractors and other parties to, or third party beneficiaries under, any Contract to which an Acquired Company is a party, in the ordinary course of business under the terms of any such Contract or under general principles of commercial or government contract Law that do not result from a breach, default or violation by such Acquired Company of or under any such Contract, (s) Encumbrances arising under the Debt Agreements, (t) Encumbrances that would not have a Material Adverse Effect, and (u) the matters identified on Section A(iii) of the Sellers Disclosure Letter.

"Person" shall mean an individual, partnership (general or limited), corporation, limited liability company, joint venture, association or other form of business organization (whether or not regarded as a legal entity under applicable Law), trust or other entity or organization, including a Governmental Entity.

"PJM Market Rules" shall have the meaning ascribed to that term in the PJM Tariff.

"PJM Tariff" shall mean that certain PJM Open Access Transmission Tariff relating to PJM Interconnection, L.L.C., including any schedules, appendices or exhibits attached thereto, on file with FERC and as amended from time to time.

"Pre-Closing Tax Period" shall mean any taxable period or portion thereof ending on or prior to the Closing Date.

"Purchase Price" shall mean the Closing Payment Amount, as it may be adjusted by the Post-Closing Adjustment.

"Purchaser Material Adverse Effect" shall mean any Effect that, individually or in the aggregate with other Effects, has, or would reasonably be expected to have, a material adverse effect on the ability of Purchaser to perform its obligations under this Agreement or consummate the transactions contemplated hereby on a timely basis.

"Rate Proceeding" means any rate case, rate update, rate rider or other rate or regulatory accounting proceeding relating to any Acquired Company.

"Rating Agency" shall have the meaning ascribed to it in the Senior Note Purchase Agreements.

"Real Property" shall mean the fee interests in real property held by an Acquired Company including all buildings, structures, pipelines, other improvements, and fixtures located thereon and all appurtenances thereto (the "Owned Real Property"), the leasehold and subleasehold interests under the leases and subleases of real property held by an Acquired Company (the "Leased Real Property"), and the Easements in favor of an Acquired Company, including buildings, structures, pipelines, other improvements and fixtures located thereon.

"Reference Time" shall mean 12:01 a.m., Eastern time, on the Closing Date; provided, that for purposes of any determination as of the Reference Time, such determination shall be deemed to occur after giving effect to any subsequent payments, dividends or distributions made or payable to Sellers or any of their Affiliates (other than the Acquired Companies) and any Indebtedness, or non-ordinary course Liabilities, subsequently incurred by any of the Acquired Companies in each case, on or prior to the actual consummation of Closing (but excluding, for the avoidance of doubt, any incurrence of Indebtedness or Liabilities in respect of any Financing of Purchaser, or any receipt or use of the proceeds thereof).

"Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of Hazardous Materials into the Environment.

"Representative" shall mean with respect to a Person, any affiliate, manager, director, officer, member, partner, agent, employee, advisor, consultant, attorney, accountant, banker, financial advisor, rating agency, actual or potential debt or equity financing source, insurance provider, or other representative of such Person.

"Required Regulatory Approvals" shall mean the approvals set forth on Section A(v) of the Sellers Disclosure Letter.

"Sarbanes-Oxley Act" shall mean the Sarbanes-Oxley Act of 2002.

"SEC" shall mean the U.S. Securities and Exchange Commission.

"Securities Act" shall mean the U.S. Securities Act of 1933.

"Seller Affiliated Tax Group" shall mean the affiliated group within the meaning of Section 1504(a) of the Code (or any similar group defined under a similar or comparable provision of state, local or non-U.S. Law) of which the direct or indirect parent of the Acquired Companies is the common parent for any period during which the Acquired Companies are or were members.

"Seller Benefit Plan" shall mean each Benefit Plan that is sponsored, maintained, contributed to or required to be maintained or contributed to by a Seller or any of its Affiliates, in each case providing benefits to any Acquired Company Employee.

"Seller Group" shall mean Sellers and their Affiliates.

"Senior KPCo Notes" means, collectively, the following notes issued by Kentucky Power: (a) $120,000,000 4.18% Senior Notes, Series A, due September 30, 2026, (b) $80,000,000 4.33% Senior Notes, Series B, due December 30, 2026, (c) $65,000,000 3.13% Senior Notes, Series F, due September 12, 2024, (d) $40,000,000 3.35% Senior Notes, Series G, due September 12, 2027, (e) $165,000,000 3.45% Senior Notes, Series H, due September 12, 2029, and (f) $55,000,000 4.12% Senior Notes, Series I, due September 12, 2047.

"Senior Note Purchase Agreements" shall mean, collectively, the note purchase agreements governing the Senior KPCo Notes.

"Shared Contracts" shall mean those Contracts to which a Seller or any of its Affiliates (other than an Acquired Company) is a party pursuant to which the counterparty thereto is expected to provide in the twelve month period after the Closing Date, in an individual release or order under the Contract, more than $250,000 of products, services or Intellectual Property to any of the Acquired Companies); provided, that the definition of "Shared Contract" shall exclude any corporate-level services provided (or expressly excluded or services which Purchaser or the Acquired Companies decline to accept) under the Transition Services Agreement.

"Subsidiary" shall mean, with respect to any Person, any other Person, whether incorporated or unincorporated, of which (a) such first Person directly or indirectly owns or controls at least a majority of the securities or other interests having by their terms ordinary voting power to elect a majority of the board of directors or others performing similar functions or (b) such first Person is a general partner or managing member.

"Successor Operator" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as operator of the Mitchell Plant.

"Target Net Working Capital" shall mean negative thirty-eight million one hundred five thousand U.S. dollars (-$38,105,000).

"Tax" shall mean any tax of any kind, including any federal, state, local or foreign income, profits, license, severance, occupation, windfall profits, capital gains, capital stock, transfer, registration, social security (or similar), production, franchise, gross receipts, payroll, sales, employment, use, property, excise, value added, estimated, stamp, alternative or add-on minimum, environmental or withholding tax, and any other duty, assessment or governmental charge, in each case in the nature of a

tax, imposed by any Governmental Entity, together with all interest, penalties and additional amounts imposed with respect to such amounts.

"Tax Liability Amount" shall mean an amount, equal to the sum of (a) the liability for Income Taxes of the Acquired Companies with respect to any Pre-Closing Tax Period in jurisdictions in which the Acquired Companies are currently filing Income Tax Returns on a separate-company basis that is unpaid as of the Closing Date and (b) any payroll, social security, employment or similar Taxes deferred under the CARES Act or similar Law by the Acquired Companies with respect to any wages or compensation paid prior to the Closing; provided that (i) except as otherwise provided herein, such liability for Income Taxes shall be calculated in accordance with the past practice (including reporting positions, jurisdictions, elections and accounting methods) of the Acquired Companies in preparing Tax Returns for Income Taxes, (ii) all deductions of the Acquired Companies relating to Transaction Expenses, and without duplication, amounts included in Indebtedness or Net Working Capital or otherwise taken into account to determine the Purchase Price shall be taken into account to the extent "more likely than not" deductible (or at a higher level of confidence) in the Pre-Closing Tax Period and applying the seventy percent safe-harbor election under Revenue Procedure 2011-29 to any "success based fees," (iii) any financing or refinancing arrangements entered into at any time by or at the direction of Purchaser or any of its Affiliates or any other transactions entered into by or at the direction of Purchaser or any of its Affiliates in connection with the transactions contemplated hereby shall not be taken into account, (iv) any Income Taxes attributable to transactions outside the ordinary course of business on the Closing Date after the time of the Closing shall be excluded, (v) any liabilities for accruals or reserves established or required to be established under GAAP or FERC Accounting Requirements, as applicable, methodologies that require the accrual for contingent Income Taxes or with respect to uncertain Tax positions and any liabilities arising from any change in accounting methods shall be excluded, (vi) all deferred tax liabilities established for GAAP or FERC Accounting Requirements, as applicable, purposes shall be excluded, (vii) any overpayments of Income Taxes with respect to Pre-Closing Tax Period shall be taken into account as reductions of the liability for Income Taxes (but not below zero) for the tax period (or portion thereof) ending on the Closing Date only to the extent applicable against a Tax liability in the jurisdiction to which the overpayment relates, and (viii) such liability for Income Taxes shall be calculated by including in taxable income on the Closing Date in the Pre-Closing Tax Period the amount of any taxable income associated with deferred revenue, prepaid amounts, or adjustments pursuant to Section 481 of the Code that would otherwise be includable in taxable income after the Closing Date.

"Tax Proceeding" shall mean any audit, examination, contest, litigation or other Action relating to Taxes.

"Tax Return" shall mean any return, declaration, report, election, claim for refund or information return or statement filed or required or permitted to be filed with any taxing authority relating to Taxes, including any schedule or attachment thereto or any amendment thereof.

"Transaction Expenses" means all fees, costs and expenses, solely to the extent that any Acquired Company has or will have any Liability in respect thereof, in each case, to the extent (a) incurred or payable in connection with the negotiation, preparation and execution of this Agreement and the Ancillary Agreements or the consummation of the transactions contemplated hereby or thereby on or prior to Closing and (b) not paid prior to the Reference Time, including, for the avoidance of doubt, (i) amounts payable to legal counsel, accountants, advisors, investment banks, brokers and other Persons advising any Seller or the Acquired Companies in connection with the transactions contemplated hereby or by any Ancillary Agreement, (ii) all bonuses and change in control payments payable in connection with the execution of this Agreement or any Ancillary Agreement or the consummation of the transactions contemplated hereby or by any Ancillary Agreement and (iii) the amount of the employer

portion of any payroll, social security, Medicare, unemployment or similar or related Taxes payable with respect to the amounts set forth in the immediately preceding clause (ii).

"TransCo Intercompany Notes" shall mean, collectively, the following notes issued by Kentucky TransCo: (a) $4,000,000 4.05% Senior Notes, Series C, Tranche H, due November 14, 2034; (b) $5,000,000 3.66% Senior Notes, Series C, Tranche D, due March 16, 2025; (c) $2,000,000 $3.76% Senior Notes, Series C, Tranche E, due June 15, 2025; (d) $3,000,000 4.01% Senior Notes, Series C, Tranche G, due June 15, 2030; (e) $21,000,000 3.65% Senior Notes, Series M, due April, 2050; (f) $4,000,000 3.10% Senior Notes, Series D, due December 1, 2026; (g) $12,000,000 4.00% Senior Notes, Series E, due December 1, 2026; (h) $3,000,000 3.10% Senior Notes, Series D, due December 1, 2026 and (i) $10,000,000 3.75% Senior Notes, Series H, due December 1, 2047.

"Transition Services Agreement" shall mean the transition services agreement to be executed by AEPSC and the Acquired Companies and dated as of the Closing Date, substantially in the form attached hereto as Exhibit A.

"United States" or "U.S." shall mean the United States of America and its territories and possessions.

"WARN Act" shall mean the federal Worker Adjustment Retraining and Notification Act of 1988 and similar state or local Laws related to plant closing, relocations and mass layoffs.

"Wheeling" shall mean Wheeling Power Company, a West Virginia corporation and an Affiliate of Sellers, in its capacity as an owner of an undivided co-tenancy interest in the Mitchell Plant.

"WVPSC" shall mean the Public Service Commission of West Virginia or any subdivision, panel, instrumentality, official or staff member acting on behalf thereof.

2. Other Definitions. The following terms shall have the meanings defined in the Section indicated:

Term	Section
Accepting Noteholders	4.16(e)
Accounting Principles	1.4(b)
Acquired Companies' Financial Statements	2.5(a)
Acquired Company or Acquired Companies	Recitals
Additional Regulatory Filings and Consents	2.4
AEP	Preamble
AEP TransCo	Preamble
Agreement	Preamble
Business Claims	4.22
Balance Sheet Date	2.5(c)
Burdensome Condition	4.5(d)
Business Separation Plan	4.16(f)
Claim Handling and Funding Agreement	4.22
Closing	1.1
Closing Date	1.3(a)
Closing Payment Adjustment	Definition of Closing Payment Amount
COBRA	5.7
Company Confidential Information	4.3(a)

Company Registered Intellectual Property	2.9
Continuation Period	5.4
Continuing Covered Employees	5.3(a)
Continuing Non-Covered Employees	5.4
Continuing Support Obligations	4.9
D&O Indemnified Parties	4.12(a)
Delayed Transfer Employee	5.19
Effect	Definition of Material Adverse Effect
Effective Date	Preamble
Enforceability Exceptions	2.3
Estimated Closing Statement	1.4(a)
Final Closing Statement	1.6(c)
Guarantor	3.7(b)~~,~~
Independent Accounting Firm	1.6(c)
Initial Closing Statement	1.5(a)
Intercompany Arrangements	4.8(a)
Kentucky Power	Recitals
Kentucky Power Financial Statements	2.5(a)
Kentucky Power Shares	Recitals
Kentucky TransCo	Recitals
Kentucky TransCo Financial Statements	2.5(a)
Kentucky TransCo Shares	Recitals
Leased Real Property	Definition of Real Property
Legal Restraints	7.1(a)
Master Leases	4.19
Material Contracts	2.8(a)
Mitchell Operator Asset	4.20(a)
Mitchell Employees	2.14(a)
Morgan Lewis	1.3(a)
NERC	4.18
Non-Recourse Party	9.2
Notice of Disagreement	1.6(a)
Outside Date	8.1(b)(i)
Owned Real Property	Definition of Real Property
Parties	Preamble
Party	Preamble
Post-Closing Adjustment	1.7
Pre-Closing Engagement	10.15
Prohibited Party	3.5(b)
Purchaser	Preamble
Purchaser Disclosure Letter	Article III
Purchaser Indemnified Parties	9.1(a)
Purchaser Guaranty	3.7(b)~~,~~
Purchaser Savings Plan	5.9
Purchaser Union Savings Plan	5.9
Qualified Plan	2.13(d)
Qualifying Offer	5.19
Releasees	4.11(a)
Resolution Period	1.6(b)

R&W Policy	4.15
Sale	1.1
Sanctioned Country	3.5(b)
SDN	3.5(b)
Section 205	4.5(e)
Seller	Preamble
Seller Indemnified Parties	9.2(b)
Seller Marks	4.10
Sellers' Disclosure Letter	Article II
Senior Note Purchase Price	4.16(e)
Severed Continuing Employee	5.6
Shares	Recitals
Substituted Support Obligations	4.9
Support Employee	Definition of Acquired Company Employee
Termination Fee	8.3(a)
Transfer Taxes	6.6
U.S. Trade Controls	3.5(a)
Utility Money Pool Agreement	4.16(a)
Willful Breach	8.4
Workers Compensation Event	5.13

APPENDIX II

CALCULATION OF NET WORKING CAPITAL

See attached.

APPENDIX III

FORECASTED CAPITAL EXPENDITURES AMOUNT

See attached.

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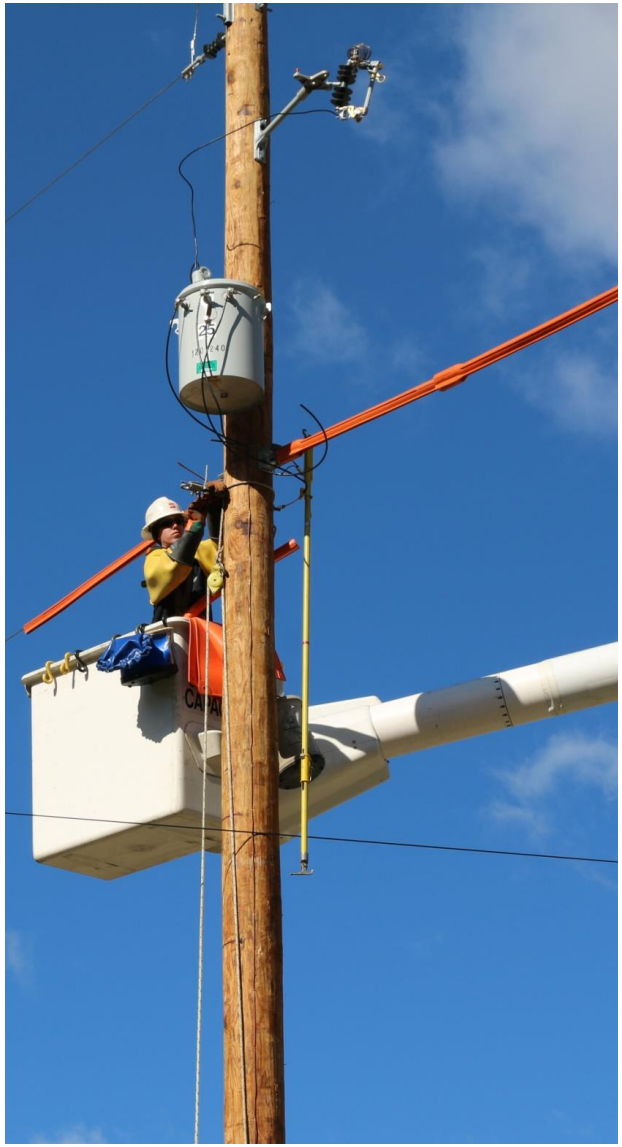

Project Nickel Confidential Information Memorandum

April 2021

BARCLAYS

Goldman Sachs

Disclaimer

American Electric Power Company, Inc. and its indirect, wholly owned subsidiary, AEP Transmission Company, LLC (such entities referred to collectively as "AEP") have engaged Barclays Capital Inc. ("Barclays") and Goldman Sachs & Co. LLC ("Goldman Sachs") as its financial advisors to solicit and evaluate proposals regarding the potential transaction described herein ("the Transaction").

This Confidential Information Memorandum (including any information which has been or may be supplied in writing or orally in connection herewith or in connection with any further inquiries, this "Memorandum") is being made available only to a limited number of parties who have signed and returned a confidentiality agreement regarding the Transaction and is for the exclusive use of such recipients and their respective directors, managers, officers, employees, agents, advisors, representatives or affiliates, including the directors, managers, officers, employees, agents, advisors and representatives thereof (collectively, "Associates") only to evaluate the Transaction and for no other purpose. By accepting this Memorandum, the recipient of this Memorandum (the "Recipient") acknowledges and agrees that all of the information contained in this Memorandum is confidential and is made strictly on the basis, and subject to the terms, of a confidentiality agreement previously executed by the Recipient. Accordingly, this Memorandum must be held, and the Recipient and its Associates must act, strictly in accordance with the terms of the aforementioned confidentiality agreement. This Memorandum shall remain the property of AEP.

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The information contained in this Memorandum speaks as of the date hereof or as of the date at which such information is expressed to be stated, as applicable. None of AEP, Barclays, Goldman Sachs, nor any of their respective Associates assumes any responsibility to update or revise any information contained in this Memorandum or to inform the Recipient of any matters of which any of them becomes aware of which may affect any matter referred to in this Memorandum (including, but not limited to, circumstances, developments or events occurring after the date hereof or any error or omission herein which may become apparent after this Memorandum has been prepared). Reference to any agreements relating to AEP are qualified in their entirety by reference to the actual terms of those agreements, as the same may be amended from time to time, which shall control if there is a conflict, variation or inconsistency between the terms of those agreements and any references thereto. The information contained in this Memorandum shall not be deemed an indication of the state of affairs of the subject of the Transaction nor shall it constitute an indication that there has been no change in the business or affairs of the subject of the Transaction since the date hereof or since the date at which such information is expressed to be stated, as applicable. The information contained in this Memorandum does not purport to be all of the information an interested party may require in order to investigate and consider a Transaction. The Recipient should make its own independent investigations and analyses of the Transaction and its own assessment of all information and material provided or made available by AEP, Barclays, Goldman Sachs or any of their respective Associates. No securities commission or securities regulatory authority or any other regulatory or other authority in the United States of America or any other jurisdiction has in any way opined upon the merits of the Transaction or the accuracy or adequacy of this Memorandum.

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All communications and inquiries relating to a Transaction, or requests for additional information or questions regarding procedures, shall be made through Barclays and Goldman Sachs. No personnel of AEP or their affiliates, or any of their employees, customers or suppliers should be contacted directly under any circumstances.

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INTRODUCTION

Opportunity Overview

- American Electric Power Company, Inc. (“AEP”) is exploring the sale of its wholly-owned subsidiaries, Kentucky Power Company (“KPCo” or “Kentucky Power”) and AEP Kentucky Transmission Company, Inc. (“KTCo” or “Kentucky Transco”)

- The transaction offers an attractive opportunity to acquire a fully-regulated, vertically-integrated electric utility in a constructive regulatory jurisdiction and a FERC-regulated transmission business
  - Kentucky Power is a 100% electric utility with significant growth potential represented by [redacted] of projected 2021-2030 capex on an existing 2020 rate base of ~$1.92 billion
    - Includes [redacted] in renewable energy investments driving a transition to cleaner sources of generation
  - Kentucky Transco is a FERC-regulated transmission business with $131 million of rate base and projected 2021-2030 capex of [redacted]

- AEP has retained Barclays Capital, Inc. (“Barclays”) and Goldman Sachs & Co. LLC (“Goldman Sachs”) as financial advisors (collectively, the “Advisors”) in connection with the transaction

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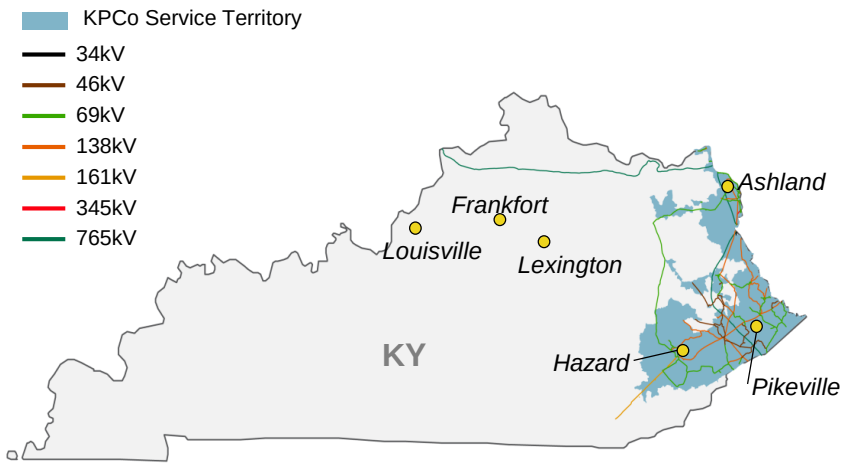
Overview and Key Facts

Overview

- Kentucky Power is a vertically integrated electric utility incorporated in Kentucky, and Kentucky Transco is a regulated transmission business with assets exclusively in Kentucky (together, the "Company")
  - Founded in 1919, KPCo serves ~166,000 retail customers in 20 Eastern Kentucky counties and is headquartered in Ashland, KY
  - Kentucky Power has 497 employees with further support from shared service employees at the AEP Service Corporation
- KPCo is regulated by the Kentucky Public Service Commission ("KPSC")
  - KPCo derives its revenues based upon a cost-of-service methodology designed to provide a regulated Return on Equity ("ROE") as stipulated by the KPSC
  - KPCo's current rates were set in January 2021 through a rate case order with the KPSC which provided an ROE of 9.30%(1) on investments
- Kentucky Transco is regulated by the Federal Energy Regulatory Commission ("FERC")
  - Kentucky Transco's rates in PJM are currently set to a 10.35% ROE(2)

Service Territory

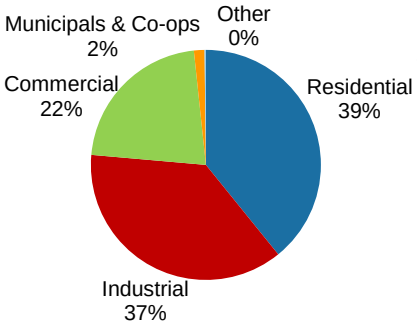


Key Facts

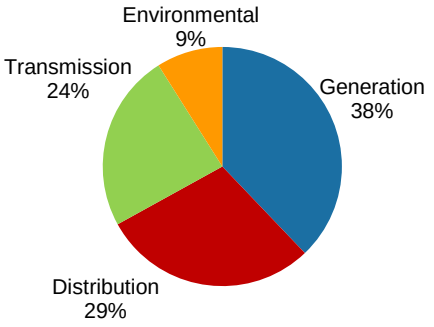
2020 Energy Sales	5,260 GWh
Avg. Annual Use per Residential Customer	14,820 kWh
Avg. Cost per kWh for Residential Customers	11.87 cents
Distribution Lines	10,032 miles
Transmission Lines	1,236 miles
Owned Generation	1,075 MW
Generation under Unit Power Agreement	393 MW
2020 Total Customer Count	
Residential	134,284
Commercial	30,359
Industrial	1,120
Combined Rate Base as of 12/31/2020	~$2.0 billion
KPCo Senior Unsecured Credit Rating	Baa3 / BBB+

Sales and Rate Base Breakdown by Segment

2020 Energy Sales



2020 Rate Base(3)



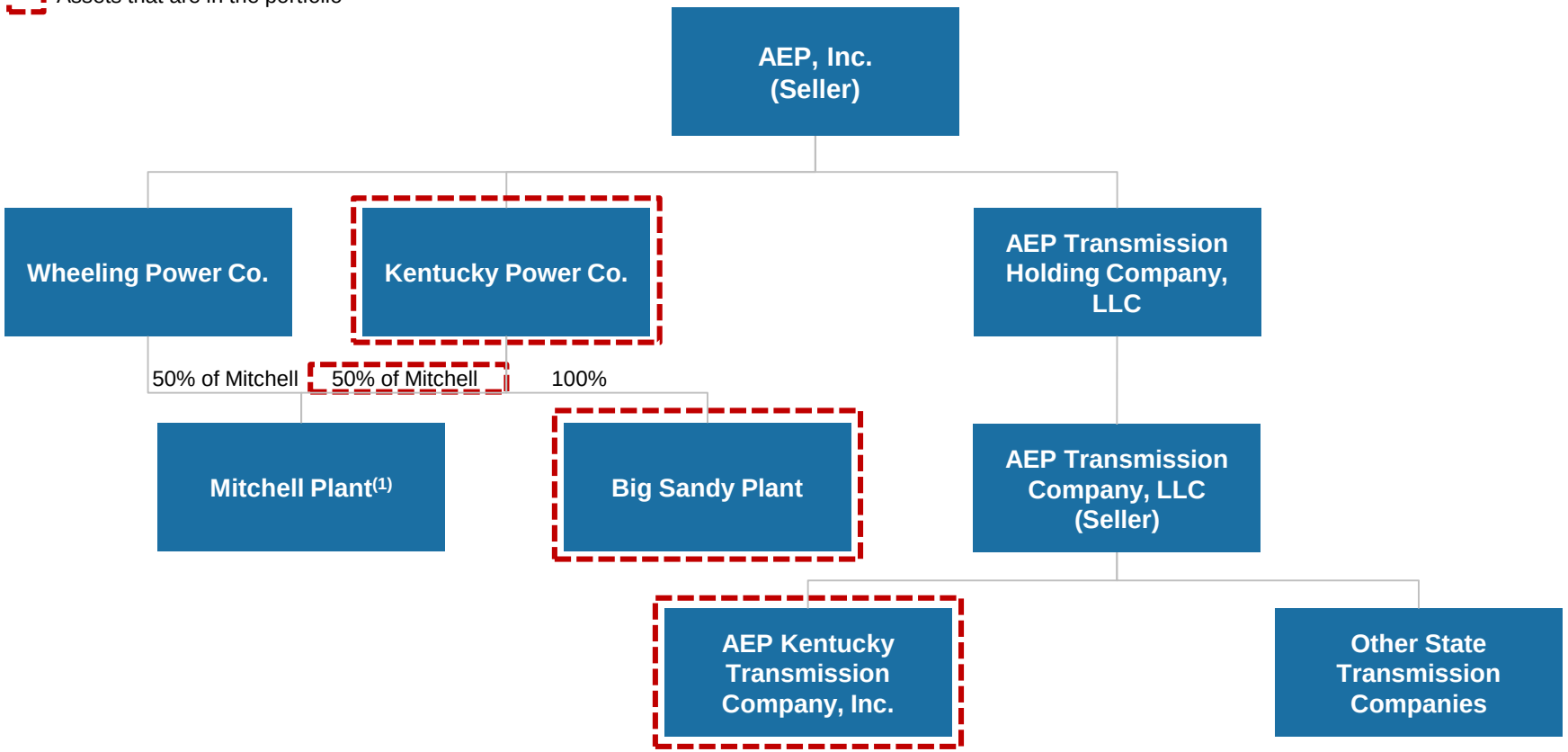
1. *The weighted effective ROE is 9.25% between the Decommission Rider and Environmental Surcharge at 9.10% and the base ROE at 9.30%.*
2. *ROE rate comprising of a 9.85% base rate plus a 0.50% RTO incentive adder.*
3. *Generation includes the rate base associated with the Big Sandy decommissioning regulatory asset and the FERC generation rate base, which consists of a portion of KPCo's generation system costs that are recovered through a wholesale (FERC) contract rather than retail rates. KPCo Transmission represents ~74% of total transmission rate base. Kentucky Power percentages reflect 2020 rate case filing.*

Financial Overview

Legal Structure

The transaction will consist of the sale of the stock of Kentucky Power Company and AEP Kentucky Transmission Company, both of which are 100% owned (directly or indirectly) by AEP

Assets that are in the portfolio



Note: Does not reflect all entities in the AEP, Inc. structure. Buyer should assume no tax basis step up in connection with the stock sale.

1. *KPCo operates and owns 50% of the Mitchell plant; Wheeling Power ("WPCo"), an AEP subsidiary, owns the remaining 50%. Wheeling Power's stake in the Mitchell Plant is not part of the transaction.*

Key Contacts

All contact should be made through Barclays and Goldman Sachs. Under no circumstances should the management or employees of AEP, Kentucky Power or Kentucky Transco be contacted directly. Any inquiries should be directed to:

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KEY INVESTMENT HIGHLIGHTS

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Key Investment Highlights

1 Fully Regulated Electric Utility

- 100% regulated, vertically-integrated electric utility with single-state operations in a constructive regulatory jurisdiction (Average / 1 RRA Rating) with no commodity or inflation risk
- Rate certainty from recent rate case order and timely recovery of capital through ten cost recovery mechanisms & trackers
- Transmission and distribution ("T&D") investments at KPCo and Kentucky Transco provide jurisdictional diversity through FERC-regulated investments with a highly attractive formulaic rate construct

2 Electric-Only Operations Benefit From Macro Electrification Trends

- Pure-play electric operations allow KPCo to fully benefit from long-term macro electrification trends
- Future load growth driven by greater consumption of electricity in industrial and transportation segments of the economy
- Capital investment in the grid will be required to facilitate electrification trend

3 Significant T&D Maintenance & Growth Capex Opportunities

- The Company expects significant investments in transmission & distribution assets with spend distributed amongst a variety of projects, supporting sustainable growth
- The Company plans to invest over [redacted] through 2030 in transmission and distribution opportunities
  - The capital plan aims to modernize and expand KPCo's transmission facilities in order to maintain and improve system reliability, interconnect new generation resources and improve grid resilience to respond to natural disasters

4 Large Generation Transition Investments

- [redacted] capital plan over 2021-2030 includes significant renewable generation development
  - Long-term opportunity to design the decarbonization of KPCo's generation supply as the state transitions from coal to cleaner energy sources, including renewable energy and storage
- Recent proposed infrastructure bill demonstrates the Biden administration's support for generation transition and transmission

5 Service Territory with Economic Development

- Eastern Kentucky is highly attractive for manufacturing, with plentiful skilled labor, low costs of doing business and highly competitive energy rates to support growth from current levels
- Kentucky Power has visibility to significant industrial load growth in its service territory, including from a large aluminum mill under development
- KPCo has a history of working with regulators, legislators and economic development organizations to create the proper incentives for economic growth in the region, resulting in recent successes in manufacturing and agriculture

6 Premier Management Team

- The Kentucky Power management team has significant experience in regulated utilities, which supports operational excellence at the Company
- Extensive experience operating within Kentucky's regulatory framework and successfully championing supportive regulatory outcomes, along with a comprehensive and well-defined strategy for future success

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100% Regulated Single-State Electric Utility

The Company's operations are fully regulated by the Kentucky PSC and FERC

Kentucky Power

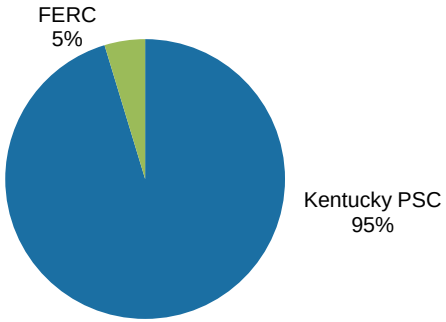
- As a fully regulated entity, Kentucky Power's investments receive an authorized ROE of 9.30%[1]
  - KPCo's various trackers provide support to the realized return and partially address return lag concerns around relevant spend
  - No fuel price risk due to full recovery from KPCo's Fuel Adjustment Clause
- Standard and Poor's ("S&P") described Kentucky as "credit supportive and constructive," and Moody's highlighted a regulatory environment that is "reasonably supportive to long-term credit quality"
- Forecast calls for [redacted] in 2021-2030 capital expenditures at KPCo
  - KPCo rate base is expected to grow at a [redacted] CAGR from 2021-2030

Kentucky Transco

- Kentucky Transco is regulated by FERC and earns an attractive ROE of 10.35%[2] on rate base
  - Kentucky Transco has constructive, timely rate recovery on investments through FERC's forward-looking formula rate tariff design
  - This tariff design ensures that Kentucky Transco earns its allowed ROE and eliminates regulatory lag
  - Kentucky Transco receives revenues through PJM's Open Access Transmission Tariffs (OATT), which is based on zonal or regional rates, mitigating revenue risk from any single entity
- Forecast includes [redacted] in 2021-2030 capital expenditures at Kentucky Transco
  - Kentucky Transco rate base is expected to grow at a [redacted] CAGR from 2021-2030

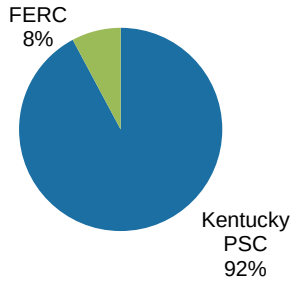
Capex and Rate Base Evolution

2021-2030 Capex By Regulatory Jurisdiction

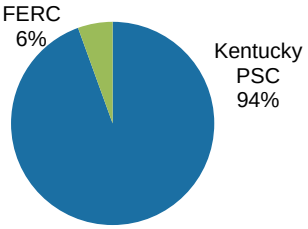


Rate Base By Regulatory Jurisdiction

2020A



2030E



1. *The weighted effective ROE is 9.25% between the Decommission Rider and Environmental Surcharge at 9.10% and the base ROE at 9.30%.*
2. *ROE rate comprising of a 9.85% base rate plus a 0.50% RTO incentive adder.*

Comprehensive Cost Recovery Mechanisms

Kentucky Power benefits from a series of riders and trackers that minimize recovery lag in between base rate cases

Kentucky Rate Recovery Background

- January 2021 rate case order removes uncertainty and provides visibility on near-term regulatory environment
  - Recent order increases both the equity ratio and the amount of PJM Load Serving Entity ("LSE") OATT charges that can be recovered
  - KPCo's next rate case must be effective no later than January 1, 2024
- The jurisdiction's continued use and implementation of trackers supports KPCo's ability to realize its allowed ROE and potentially minimize return lags

Key Rate Case Outcomes

	Prior	Requested	Ordered
Capital Structure	41.68% equity capitalization	43.25% equity, 53.73% LT debt, 3.02% AR financing	Approved as requested
Return on Equity	9.7%	10.0%	9.3% Base Rates
OATT Cost Tracking	Allows KPCo to recover 80% of incremental PJM LSE OATT charges	100% (up from 80%)	Approved as requested for 3 years

Recovery Bolstered By Key Trackers

Environmental

- The cost of service associated with the Mitchell plant Flue Gas Desulfurization ("FGD") (scrubber) remains in the environmental surcharge for recovery purposes

Decommissioning

- Company recovers the remaining net book value of the retired Big Sandy Unit 2 and the incurred decommissioning costs for coal-related assets at the Big Sandy plant
- Experience with tracker can bolster future decarbonization efforts

Purchased Power Adjustment ("PPA") Rider

- The PPA collects certain purchased power costs not recoverable through the fuel adjustment clause, Contract Service – Interruptible Power credits, 100% of incremental PJM LSE OATT expense and costs associated with the Rockport deferral

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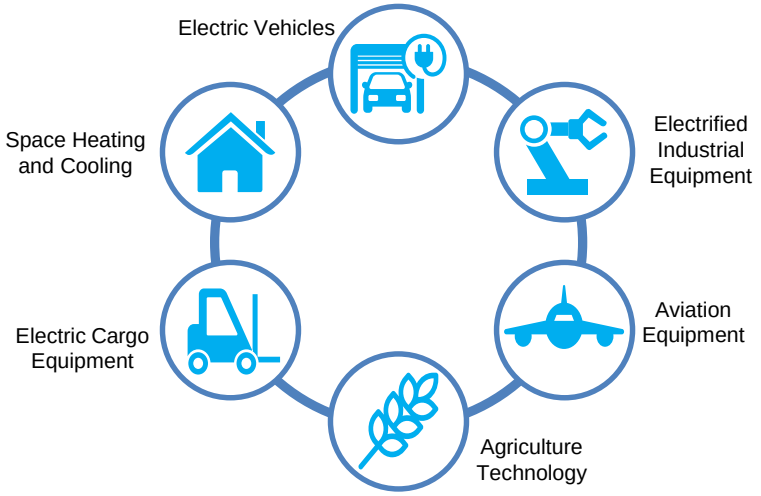
Supportive Macro Electrification Trend

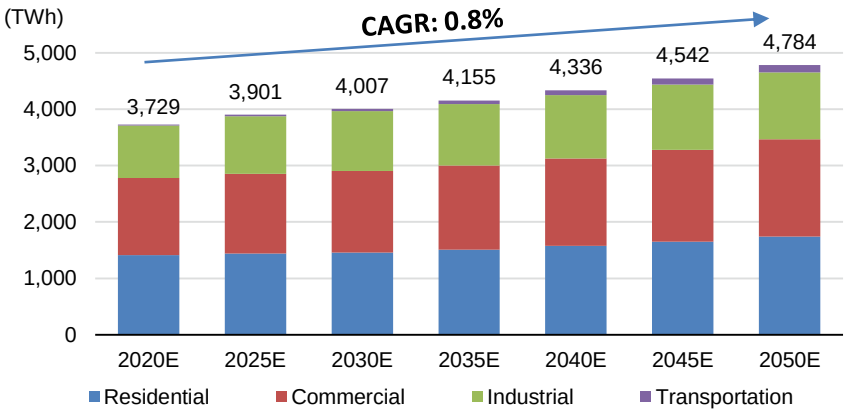
Electrification is expected to provide a tail-wind to the Company's all-electric operations

Sources of Long-Term Load Growth

- Over the next 30 years, electricity demand is projected to increase at both a nominal level and on a relative level as a share of total energy demand
- The robust infrastructure required to support this load growth and a change in the generation stack to provide cleaner sources of energy creates investment opportunities for both KPCo and Kentucky Transco
  - Significant expected T&D capital expenditure to prepare the grid for electrification in industrial and commercial / residential use
  - KPCo load forecast includes 109 GWh of incremental sales from electric vehicles by 2040, which assumes a 30% penetration
  - The Company has made successful progress on LED lighting projects

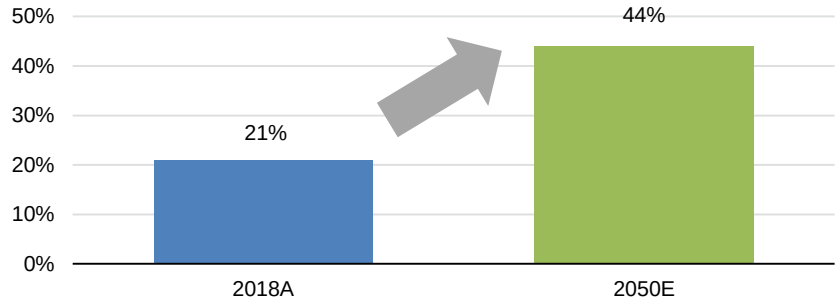


US Electricity Demand Outlook[1]



Electric Demand as a Share of Total Energy Demand[2]

Significant increase in electricity as a percentage of total energy consumed in the United States expected to drive future growth



1. *EIA Annual Energy Outlook 2020.*
2. *DNV GL.*

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Significant T&D Capex Opportunities

The Company will benefit from substantial continued T&D investment needs going forward

Overview

- Kentucky Power and Kentucky Transco both have significant low-risk transmission & distribution investment needs that will require meaningful capital deployment at attractive recovery terms
  - FERC-regulated capital receives competitive 9.85% base rate plus a 0.50% RTO incentive adder
- Long-term capital plan driven by the following goals:
  - Maintain system reliability and replace aging infrastructure
  - Relieve transmission congestion to enhance market efficiency
  - Interconnect new generation resources
  - Improve grid resilience to respond to natural disasters, physical attacks and cyber threats
- Biden administration net-zero emission targets and infrastructure goals could support incremental T&D investments along with other capex opportunities
  - For example, the American Jobs Plan has earmarked $100 billion for rural broadband development over the next eight years

T&D Capex Examples

Project	Capex
[redacted]	

T&D Capex

[redacted]

1. *Includes both KPCo and Kentucky Transco capex.*
2. *NERC refers to the North American Electric Reliability Corporation.*

Generation Transition Opportunity

Kentucky Power is expecting to add a large amount of renewable generation assets

Overview

- Federal policy, including the Biden administration's plan to decarbonize the power sector by 2035, is expected to support utilities transitioning from coal-fired generation
- Even under a scenario where Mitchell operates until 2040, Kentucky Power anticipates 1.45 GW of renewable generation to be built by 2030, with 1.0 GW of wind and 450 MW of utility scale solar
  - KPCo currently has a Certificates of Public Convenience and Necessity ("CPCN") filing with the KPSC that will determine whether the plant invests in environmental compliance capex to remain operating until 2040 or retires by 2028
  - In the event of a 2028 Mitchell retirement, there would be the potential for an even greater amount of renewable generation
- Kentucky Power's success recovering on Big Sandy supports the Company's ability to retire non-renewable assets going forward

Existing Generation Sources

Plant	Fuel	Capacity (MW)	Comments
Mitchell Unit 1	Coal	390	Retirement date is currently planned to be in 2040. An environmental filing with KPSC and WVPSC will determine if a 2028 retirement date is more prudent
Mitchell Unit 2	Coal	390	
Big Sandy Unit 1	Natural Gas	295	Expected retirement date of 2031
Rockport Unit 1	Coal	198	The UPA is expiring in December 2022
Rockport Unit 2	Coal	195	
Total		**1,468**	

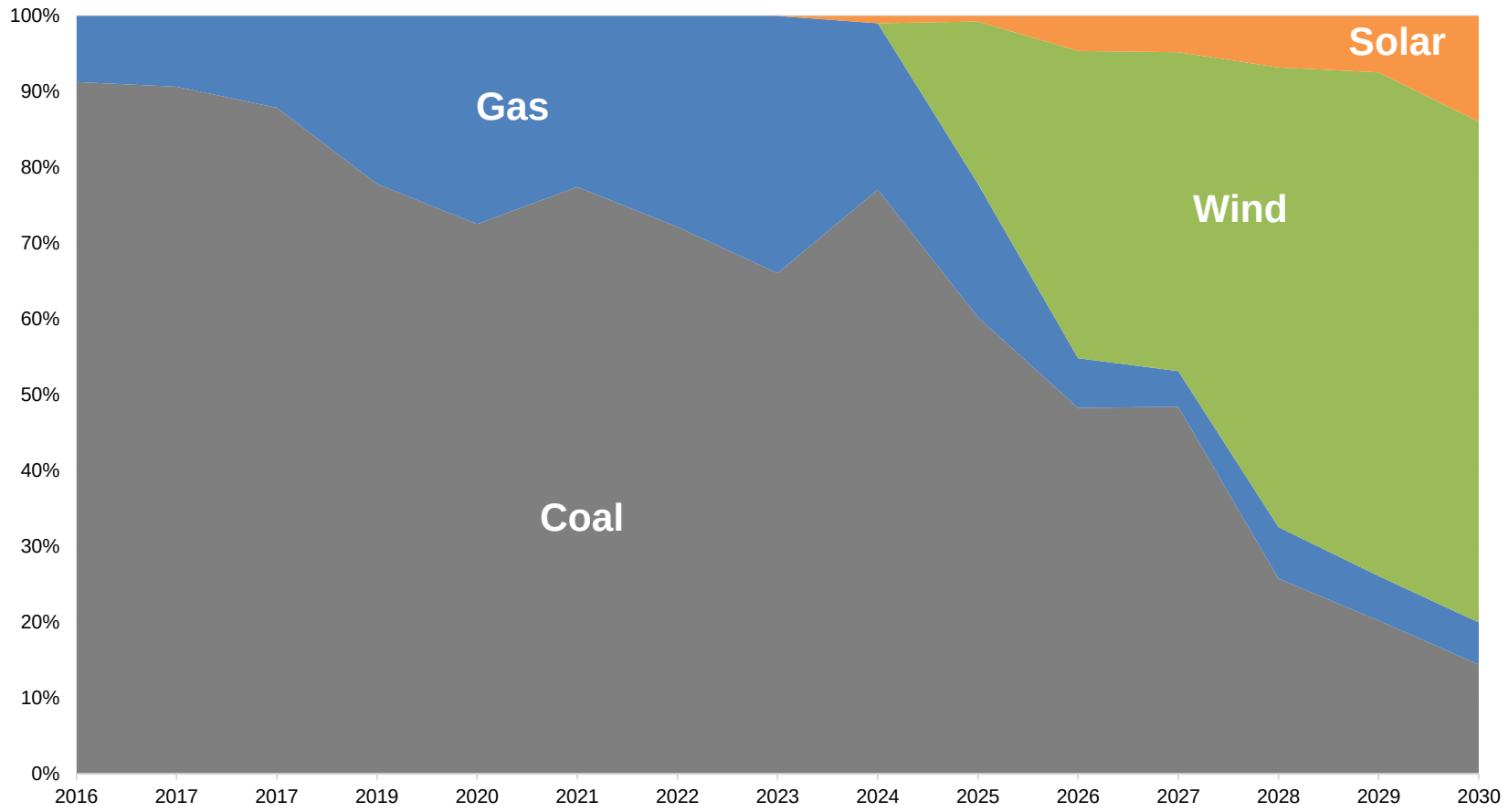
Nameplate Capacity Mix(1)

1. *Assumes 2040 Mitchell retirement. Includes Rockport UPA capacity expiring in December 2022.*

Decarbonization Outlook

Renewable generation additions would reduce CO2 emission by ~85% by 2030 from 2016 levels(1)

Kentucky Power Energy Mix (GWh)(2)



Note; Generation shown encompasses Big Sandy, owned solar & wind and the Kentucky Power portions of Mitchell and Rockport.

1. *Forecast CO2 emissions calculated by taking the average 2016-2020 CO2 tons / MWh by plant and applying it to 2030 generation by plant.*
2. *Assumes 2040 Mitchell retirement. Includes Rockport UPA capacity expiring in December 2022.*

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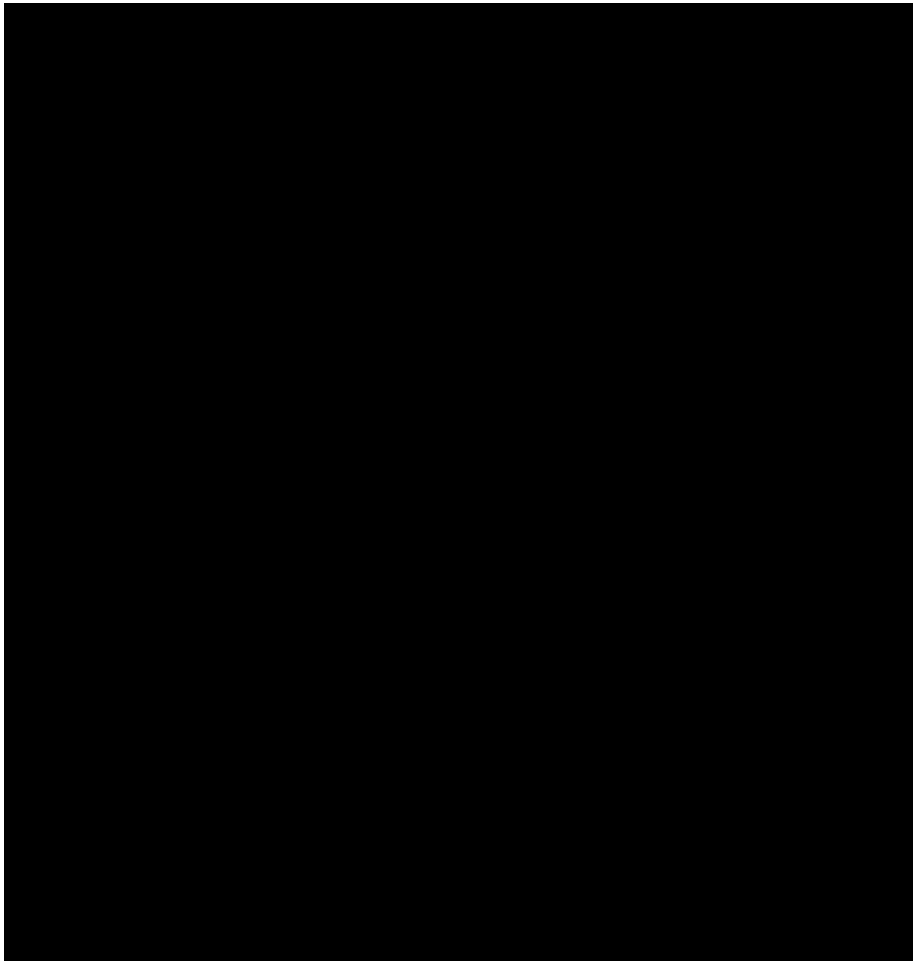
Renewables Benefit to Customers

The impact of renewables investment on customer bills will be more than offset by the decrease in fuel and purchased power costs

Overview

- Though Kentucky Power is embarking on a substantial renewables build-out, the impact to customer bills will be mitigated by the reduction in purchased power costs and fuel savings
  - Residential customer rates are expected to grow ~2.4% annually(1)
  - Residential customer rates were flat between 2016 – 2020
- As fuel costs are passed through to customers, decreasing fuel cost's contribution to customer bills can provide rate headroom for future investments on which Kentucky Power can earn its regulated return
  - Operations and Maintenance ("O&M") reductions can further mitigate customer rate increases
- The renewables build-out can benefit both ratepayers and Kentucky Power through overall cost reductions while also reducing carbon emissions



1. *Represents compound annual growth from 2021 to 2030.*
2. *Fuel and Purchased Power Savings represents the difference in 2030 fuel and purchased power costs between the base case scenario, which includes new build renewable generation, versus a scenario with no new build renewable generation.*
3. *2030 Renewable requirement was calculated using a net average renewable rate base of $1.25bn and a pre-tax return on rate base of 7.62%. Includes benefit from grossed up PTCs and amortization of solar ITC (pre-tax).*

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Economic Development Successes

Kentucky has many of the attributes necessary to achieve economic development

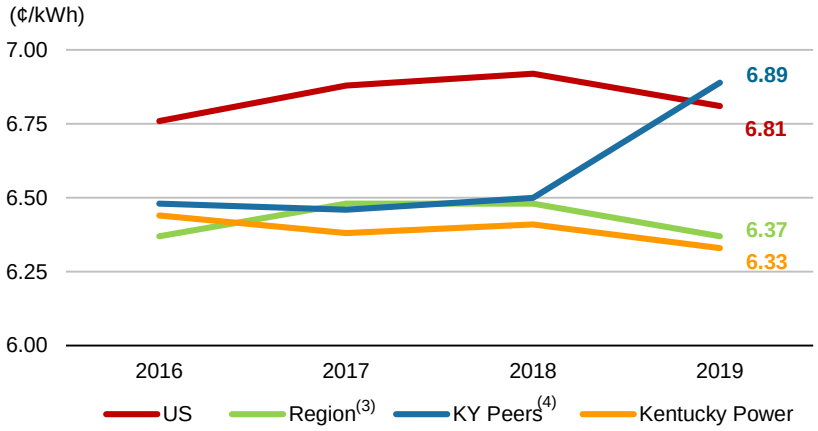
Well-Formulated Approach to Growth

- By fostering relationships with regulators, legislators and economic development organizations, KPCo can continue to create the proper incentives for industrial and manufacturing growth in the region
- KPCo has been a leader in pursuing economic development in Eastern Kentucky to expand both its customer base and opportunities for its customers
- The combination of highly skilled labor, several industrial sites and low-cost electricity is being marketed to manufacturers looking to identify a location for capital investment
- Typically industrial growth will trigger an increase in commercial and residential load due to the "clustering effect"

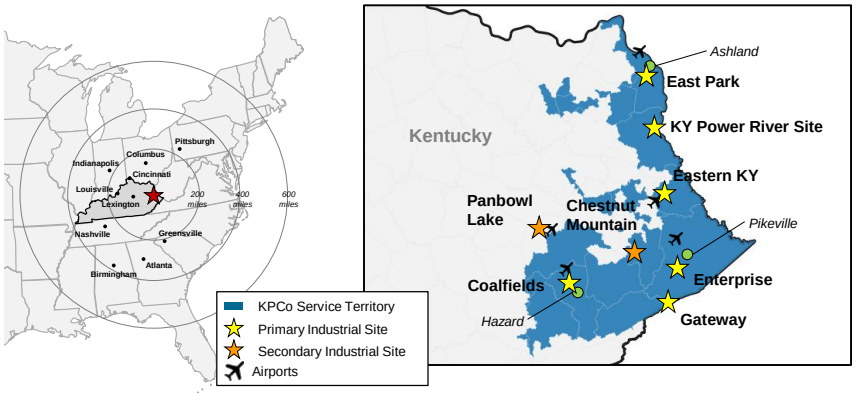
Near-Term Load Growth Opportunities in Development(1)

[redacted]

Avg. Retail Rates, *Industrial Customers (2016–2019)*(2)



Favorable Central Location



1. *Projects are upside opportunities that are not in the financial forecast.*
2. *EIA, KPCo.*
3. *Represents simple average of region including: AL, GA, IL, IN, MS, MO, NC, OH, SC, TN, VA, WV.*
4. *Represents simple average of investor owned utilties in Kentucky excluding KPCo.*

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Kentucky Power Senior Management

A highly experienced management team is already in place to continue the Company's success

Name	Title	Years of Experience	Experience
[redacted]			

"[Kentucky Power] is well managed and [has] adopted aggressive economic development programs designed to lure manufacturing and commercial businesses into their service territory."

– KPSC Chairman Michael Schmitt, Public Utilities Fortnightly, June 15, 2018

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Strategy for the Future

Kentucky Power and Kentucky Transco have a well-developed strategy for continued growth

Leadership Role in Advancing Economic Development in the Region	▪ Bringing new business and creating job growth with livable wages to match the available skilled labor in Eastern Kentucky – Company management has taken a leading role in working toward revitalizing the economy of Eastern Kentucky. Actively engaged with state & federal leaders and regional councils (e.g., Ashland Alliance and One East Kentucky) to spur investment in manufacturing – KPCo leaders have promoted Kentucky aerospace capabilities with regional partners internationally – Industrial and manufacturing development expected to translate into residential & commercial customer growth by providing new, well-paid jobs
Maintaining Strong Relationships with Regulators	▪ Continuing to build on constructive partnership with the KPSC on investment and customer rate structures – Partner with regulators to help deliver successful outcomes to both KPCo and its customers – Developing mechanisms to reduce regulatory lag and structuring rates to spur investment and limit residential customer impact – Leader in the efforts to reinvest and grow the Central Appalachian region
Operational Improvements to Increase Reliability & Customer Satisfaction	▪ Improving reliability as a key for enhancing customer experience – Various initiatives, including grid modernization, targeted vegetation management and storm-hardening practices will increase operational strength and resiliency – Distribution and transmission upgrades, particularly introducing redundancies and line rebuilds, expected to strengthen performance and decrease outages for customers – Increasing engagement with customers about how they want to be served as technology changes drove Commission focus in 2020 rate case
Long-Term Capital Plan Driven by Low-Risk Investments	▪ Investing steadily in the system to support long-term rate base growth – Transmission & distribution: capitalizing on the opportunity to replace aging infrastructure, improve reliability and support advanced manufacturing – Opportunities to invest in new generation with upcoming Rockport UPA expiration and economic development – Focus on solving customer needs (e.g., adding redundancy in the system, battery back-ups, etc.) as a means to grow rate base
Transition to Cleaner Generation Sources	▪ Renewables will play a significant role in the Company's energy transition plan ▪ KPCo is well-positioned to grow its renewable generation fleet within its rate base – [redacted] of new wind resources by 2030 – [redacted] of utility scale solar by 2030

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OVERVIEW OF KENTUCKY BUSINESSES

Kentucky Power History

Kentucky Power is a utility principally engaged in the provision of electricity to Kentucky customers; Kentucky Power generates and purchases electricity that it distributes and sells at retail to ~166,000 customers

1919	Year Founded	▪ July 1919: Kentucky Power was founded
2000	AEP / CSW Merger	▪ June 2000: the $4.5bn merger between AEP & CSW took effect
2003-2004	Creation of AEP Zone with PJM	▪ April 2003: FERC initially approved AEP's application to join PJM ▪ October 2004: KPCo officially began its integration into PJM
2009	Creation of Transco	▪ November 2009: AEP announced the formation of a transmission company to pursue new transmission opportunities within the AEP's existing 11-state footprint, including Kentucky
2012-2013	Acquisition of Mitchell	▪ December 2012: KPCo filed a request with the KPSC for approval to transfer a one-half interest in Mitchell plant at net book value ▪ October 2013: the KPSC issued an order approving the acquisition
2015-2016	Big Sandy Retirement and Conversion	▪ May 2015: Big Sandy Unit 2 coal plant was retired May 2015 after operating since 1969 – All costs incurred related to decommissioning are recoverable, currently at a 9.1% ROE ▪ May 30, 2016: $50 million conversion of Big Sandy Unit 1 from coal to natural gas completed, diversifying the Company's fuel mix and decreasing emissions
2019	100 Acts of Appreciation Campaign	▪ January 2, 2019: Kentucky Power celebrated its 100th year of operation by kicking off the 100 Acts of Appreciation Campaign, which focused on customers and contributing to communities in its 20-county service area through 100 different campaigns over the course the year
2020-2021	COVID-19	▪ Disconnect moratoriums for customers were implemented in March 2020 and continued until late 2020; Customers were then offered flexible payment arrangements and KPCo continues to work on assisting customers ▪ Kentucky Power has contributed more than $100,000 toward COVID relief efforts

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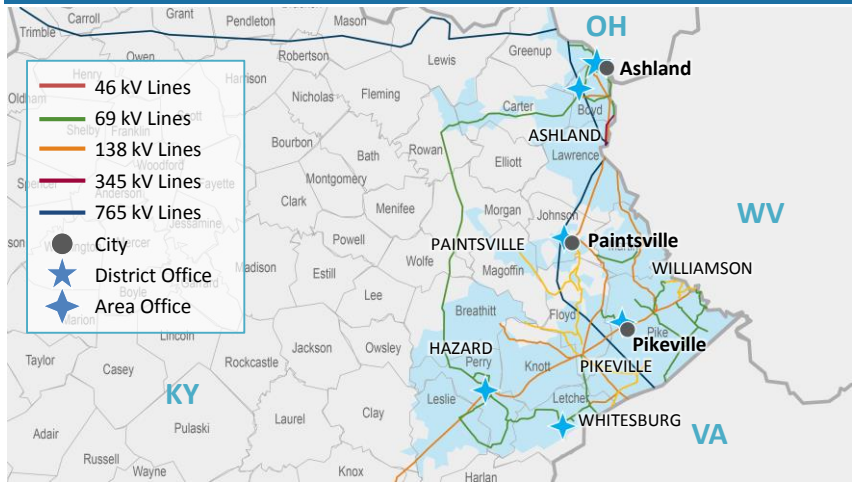
Service Territory Overview

Overview

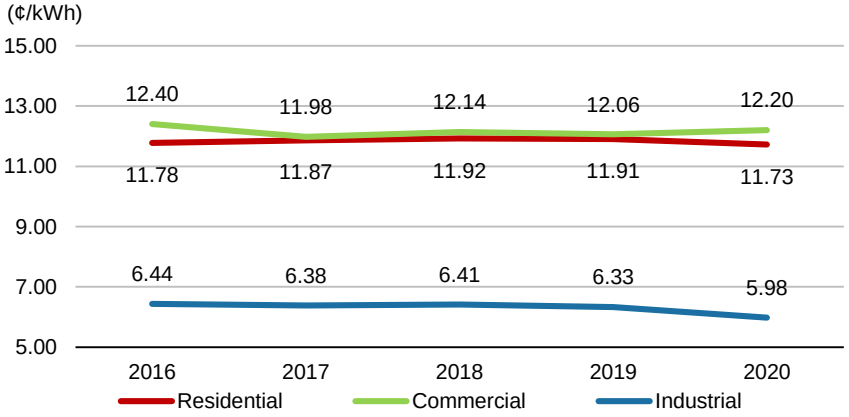
- KPCo provides service to ~166,000 customers in all or part of 20 Eastern Kentucky counties, including some of the more mountainous and heavily forested areas of the Commonwealth
  - Kentucky Power also sells electric power at wholesale rates to the city of Olive Hill and the city of Vanceburg
- Despite 2020 experiencing a decline in total load due to COVID, historic load has generally been ~5,500 GWh
- KPCo is a winter peak load service territory with 1,168 MW in January 2020
- While the region the Company serves has seen a downturn in economic activity since 2008, primarily driven by a decrease in coal and steel production, KPCo is highly focused on expanding the industrial and manufacturing makeup of the region by engaging with new businesses

Service Territory Map

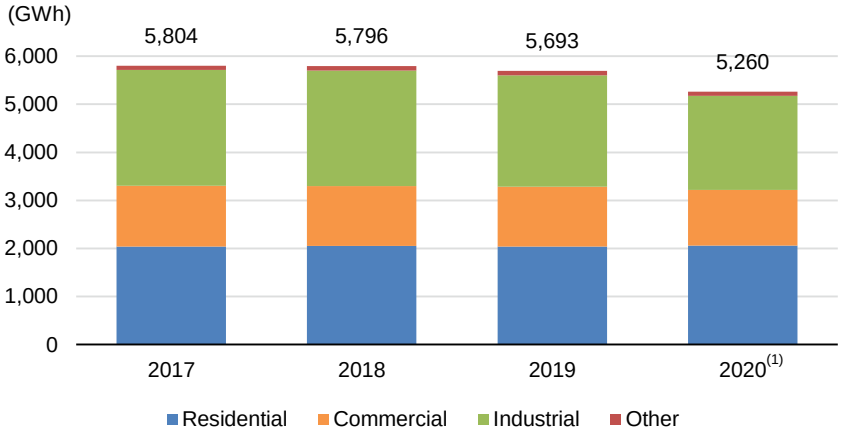


Retail Customer Rates Over Time

Rates have been flat in recent years



Historic Load



1. *Decline in load for 2020 is primarily attributable to COVID-19.*

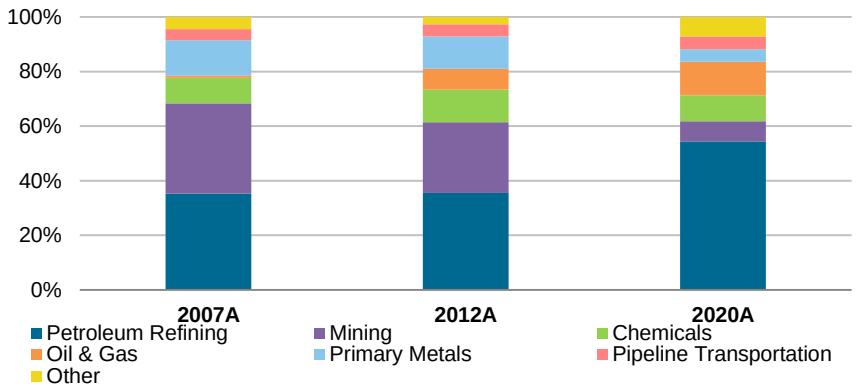
KPCo Customer Evolution

After years of coal mining load decline, KPCo's service territory is being repositioned to attract new, diverse sources of industrial load

Overview

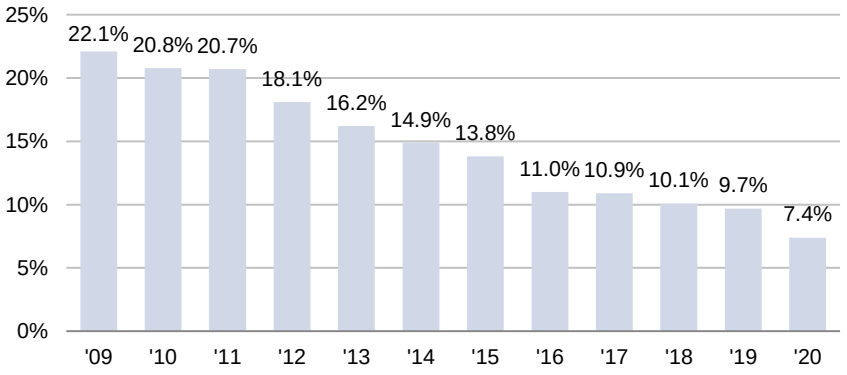
- Over the last 10 years, KPCo has seen an evolution of its industrial customer base from mining and traditionally heavy industries (petrochemical, steel, metals, chemicals) to other industrial sectors with former mining executives looking for non-coal development
- KPCo has seen the majority of the decline in mining energy load; power required for mining now is expected to remain largely stable
  - Coal mine employment in KPCo's service territory has decreased ~87%, from 12,362 jobs in 2009 to 1,564 jobs in 2020
- KPCo's management team has been focused on expanding its customer base, bringing new industries to the service territory and improving overall economic outlook

Energy Sales by Industry (GWh)

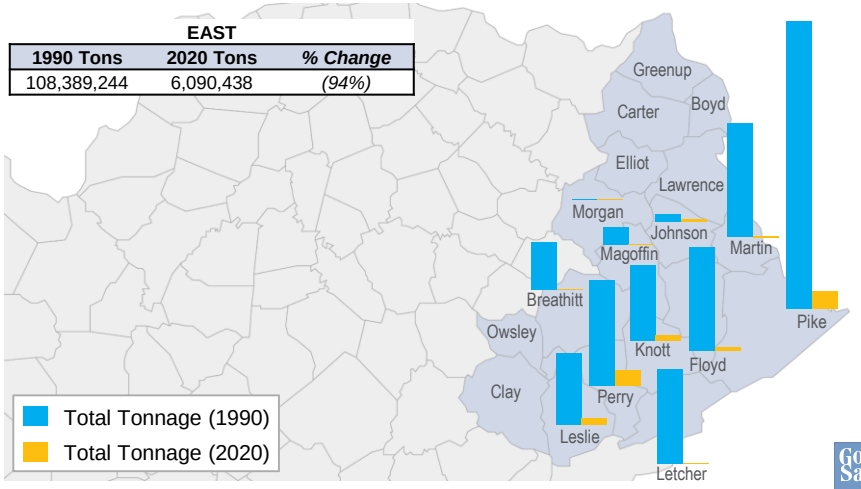


Share of Industrial Sales with Direct Coal Exposure

In 2020 coal mining load represented only 2.7% of total retail sales



Coal Production by County (1990 vs. 2020)[1]



1. *Source: Kentucky Office of Energy Policy. Highlighted counties are those in KPCo's territory that produced coal in 1990, but only those producing coal in 2020 are graphed.*

Key Economic Growth Initiatives

Eastern Kentucky has a highly skilled workforce that supports economic development efforts

Overview

- Kentucky Power views economic development as critical to supporting an increased load and keeping rates low
  - KPCo has and will continue to exert significant effort to recruit industry and capital investment in its service territory
- The economic development surcharge funds the Kentucky Power Economic Growth Grants ("K-PEGG") program, which provides grant funding targeted specifically at projects designed to enhance the economic development potential of the communities in KPCo's territory
  - Recent successes include Dajcor Aluminum, Intuit / Sykes Enterprises and Logan Corporation

Eastern Kentucky Workforce

- The Eastern Kentucky economy has historically been rooted in the coal industry, but today aerospace is Kentucky's #1 export
- A 2016 study on the Eastern Kentucky workforce[1] showed that the area had a total workforce of 187,759, of which 95% were non-union. Those workers earned, on average, $17.53 per hour, and there were an additional 10,000 workers available
- 8x national average of advanced metalworkers, employees crucial to aerospace companies
- ~78% of employees are "Satisfied" or "Very Satisfied" with their employer

Key Partners

[redacted]

1. *Boyette Strategic Advisors; study commissioned in 2016 by One East Kentucky.*

Customer Success Case Studies

Eastern Kentucky has the capacity for future growth with a skilled manufacturing labor force, many of whom previously functioned as coal employees, in addition to land and facilities capable of being repurposed

Customer	Industry	Projected Jobs	Overview
[redacted]			

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Select Customer Growth Opportunities

Kentucky Power is actively working on several new economic development initiatives to continue to grow the service territory

Customer	Industry	Target Date	Overview
[redacted]			

[redacted]

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REGULATORY OVERVIEW

Kentucky State Regulatory Overview

Kentucky Public Service Commission

- The KPSC typically consists of three members, appointed to staggered 4-year terms by the Governor and confirmed by the state Senate
- No more than two members may be of the same profession or occupation



	Michael J. Schmitt	Kent A. Chandler	Talina R. Mathews
Position	Chairman	Vice Chairman	Commissioner
Party	Republican	Democrat	Republican
Appointment	June 2016[1]	July 2020	July 2017
Term Expiration	June 2023	June 2024	June 2021
NARUC[2] Subcommittees	Water; Pipeline Safety	Gas; Consumers & Public Interest	Electricity; Critical Infrastructure
Background	Lawyer (focus on energy and education)	Attorney in the Kentucky Attorney General's Office	Policy advisor and economist

Regulatory Overview

- KPCo provides retail electric service at regulated bundled rates in Kentucky
- After a rate case is filed, the KPSC has up to six months to issue a final decision before the proposed rate increase is implemented
- Generally, construction work in progress ("CWIP") is included in base rates
- Rate case options: a 12-month historical test period with known and measureable forward-looking adjustments or a future test year path available
- Kentucky does not have a renewable portfolio standard
- Kentucky RRA ranking is Average / 1

Governor Andy Beshear

- Governor Andy Beshear *(Democrat)* has served as Governor of Kentucky since December 2019
  - Career background as a private practice attorney at Stites & Harbison
  - In 2016, Beshear became the Attorney General of Kentucky
  - As Attorney General, focused on the opioid epidemic by creating the Kentucky Opioid Disposal Program
  - Beshear administration is committed to creating an energy policy in Kentucky that includes renewables and clean-coal

"We know that in addition to our historically low energy prices, corporate buyers are increasingly interested in expanding and locating new businesses in areas that support new, renewable energy projects. To compete, we must have an all-inclusive energy portfolio that ensures we are competing for every job that is out there. Because today's energy landscape, whether global, national or just here in the Commonwealth is facing uncertainty and rapid transformation."

– Gov. Andy Beshear, 44th Annual Governor's Conference on Energy and the Environment, October 2020

Effective Rates: Quick Facts

Effective Date	January 14, 2021
KPCo Allowed ROE[3]	9.30%
KPCo Approved Debt/Equity	56.75% / 43.25%
Expected Next Rate Case Effective Date	[redacted]

1. *Chairman Michael J. Schmitt was appointed to serve the remainder of an unexpired term previously held by Chairman James W. Gardner.*
2. *National Association of Utility Regulatory Commissioners ("NARUC").*
3. *The weighted effective ROE is 9.25% between the Decommission Rider and Environmental Surcharge at 9.10% and the base ROE at 9.30%.*

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Key Mechanism & Trackers

Mechanism/Tracker	Description
Fuel Adjustment Clause ("FAC")	▪ Recovers/credits the difference between actual fuel costs and the $0.02851 $/kWh embedded in base energy rates for fuel on a monthly basis
Environmental Surcharge ("ES")	▪ Recovers the difference between the amount of environmental costs in base rates and the amount incurred
Purchased Power Adjustment	▪ Currently recovers certain purchased power items not includable in the FAC, including: CS-IRP credits paid to interruptible customers, 100% of incremental PJM Load Serving Entity Open Access Transmission Tariff expense, and cost associated with the Rockport deferral from the Company's last base rate case
System Sales Clause ("SSC")	▪ Recovers/credits the difference between the amount of off-system sales margins embedded in base rates and actual margins
Decommissioning Rider	▪ KPCo recovers the remaining net book value of the retired Big Sandy Unit 2 and the incurred decommissioning costs for coal-related assets at the Big Sandy plant. The costs are recovered exclusively through the Decommissioning Rider
KY Econ. Dev. Surcharge ("KEDS")	▪ Fixed charge levied on each non-residential account and matched on a dollar for dollar basis by KPCo to support economic development in the Company's service territory
Residential Energy Assistance Surcharge	▪ Fixed charge levied on residential accounts and matched on a dollar-for-dollar basis by KPCo to assist low-income residential customers financially
Demand Side Management ("DSM") Adjustment Clause	▪ Recovers the program costs and lost revenues associated with KPCo's PSC-approved demand side management and energy efficiency programs
Federal Tax Cut Rider	▪ Provides a rate credit to customers related to the amortization of excess accumulated deferred federal income taxes ("ADFIT") related to the Tax Cuts and Jobs Act of 2017 ▪ Reflects the amortization of related unprotected accumulated deferred income tax over 3 years as ordered by the Commission in its most recent rate case order, down from 18 years in the prior rate case order
Capacity Charge	▪ Through the Capacity Charge, the Company recovers $6.2 million annually as approved by the Commission's final order in Case No. 2004-00420 regarding the extension of the Rockport plant unit power service agreement ▪ Ends in December 2022 when the Rockport UPA ends

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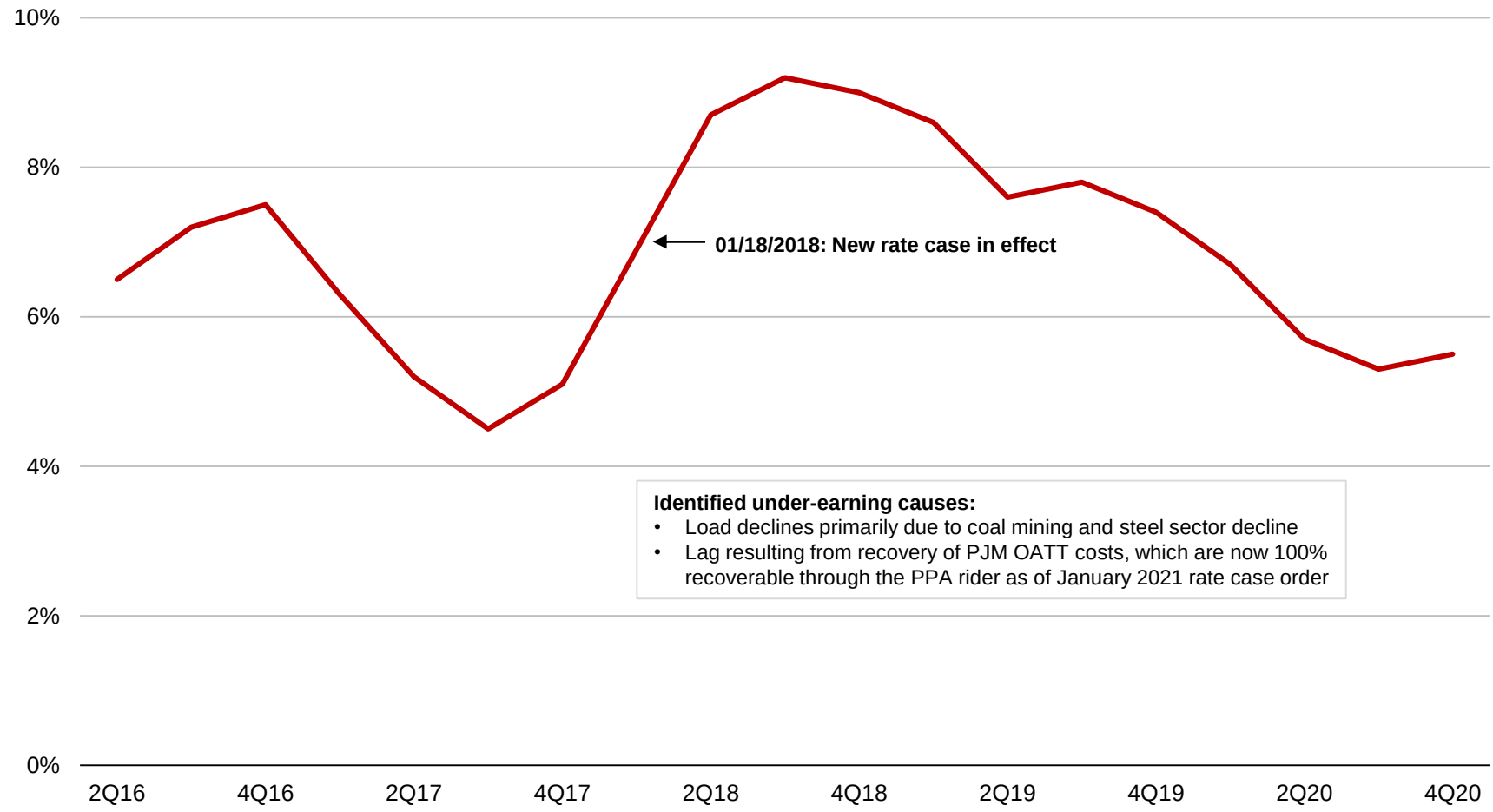
KPCo ROE

LTM Earned ROE Over Time



2021 & 2022 KPCo ROE Bridge

2021 & 2022 KPCo ROE Bridge			
	2021	**2022**	**Overview**
Approved ROE	**9.25%**	**9.25%**	▪ The weighted effective authorized ROE is 9.25% between the Decommission Rider and Environmental Surcharge at 9.10% and the base ROE at 9.30%
Exclusions	(1.27%)	(1.27%)	▪ Comprised of Incentive Compensation Plan (0.53%), Savings Plan (0.16%), Pension & OPEB (0.14%), Cash Working Capital (0.16%), Rockport UPA adjustment (0.16%) and other items (0.12%)
Depreciation	(0.57%)	(1.15%)	▪ Depreciation on post test year investments in excess of annual depreciation expense
Increased Equity	(0.50%)	(1.00%)	▪ Equity increased from $801M in case to $859 million and $938 million for 2021 and 2022, respectively
Other Expense Growth	(1.15%)	(0.97%)	▪ Includes higher O&M expenses, higher interest expense from incremental borrowings to fund capital investment and higher taxes other than income taxes
Earned ROE	**5.76%**	**4.86%**	

Select Post-2022 Sources of Earned ROE Improvement

Established Sources

- Starting on December 9, 2022, KPCo will begin recovering on an estimated $59mm of deferred Rockport costs, including carrying charges
- After the Rockport UPA expires, KPCo will no longer have Rockport UPA costs that are currently excluded from base rates, and purchased power costs will significantly decline, providing rate relief
- After 2023, the unprotected ADFIT balance will be fully amortized. Authorized rate base (and related equity capitalization) will reflect the elimination of this regulatory liability

Targeted Sources

- Increased scale / rate base will reduce the magnitude of impact of exclusions
- Use of forward test year in future rate cases could limit the impact of higher depreciation and equity capitalization on incremental investments
- Recovery of future renewables investments through rate recovery filings; potential of pre-approving renewable investments with the KPSC and adding to customer rates through a rider at COD before ultimately moving to base rates in the subsequent rate case would minimize any earnings lag risk
- O&M cost reductions and restructurings

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2021 Rate Order

KPCo's recent rate order was generally constructive relative to the Company's request

	Prior	Requested	Ordered
Gross Revenue Requirement Increase	$12.35 million	$70.1 million	$52.4 million
ADFIT Offset of Rate Increase	N/A	Offset entire first year rate increase with unprotected excess ADFIT	Amortize entire remaining balance ($88 million incremental increase over 3 years, or $29.8 million/year)
Net Customer Rate Increase	$2 million net increase	$0 increase in 2021	$22.6 million increase in 2021
Capital Structure	41.68% equity capitalization	43.25% equity, 53.73% LT debt, 3.02% AR financing	Approved as requested
Return on Equity (Base Rates)	9.7%	10.0%	9.3%(1)
OATT Cost Tracking	Tariff PPA allows KPCo to recover 80% of incremental PJM LSE OATT charges	100% (up from 80%)	Approved as requested for 3 years(2) ($2.8 million increase in 2021)
Residential Customer Charge	$14.00	$17.50	Approved
Advanced Metering Infrastructure	N/A	Deploy AMI over 4 years (total $34.5 million capital, $2.5 O&M)	Commission directed Company to refile with vendor RFP bid results and least-cost analysis
Rockport Deferral Amortization	ROE protection in 2023 tied to Rockport	Amortize Rockport deferral over 5 years beginning 2022	Will be addressed in a future proceeding(3)
Rate Case Appeal	Kentucky Power has filed an appeal to the rate order that, in aggregate, could lead to up to a ~$4.6 million increase in the revenue requirement, if successful		

1. *9.1% for 2 Riders – Decommissioning Rider and Environmental Surcharge (down from 9.7%).*
2. *Order requires Company to file a future rate case for rates effective 1/1/24.*
3. *Commission indicated that in a future proceeding it will also review Kentucky Power's ability to use savings from the Rockport UPA expiration to earn its authorized ROE in 2023, to which Kentucky Power is entitled to from the 2017 rate case settlement.*

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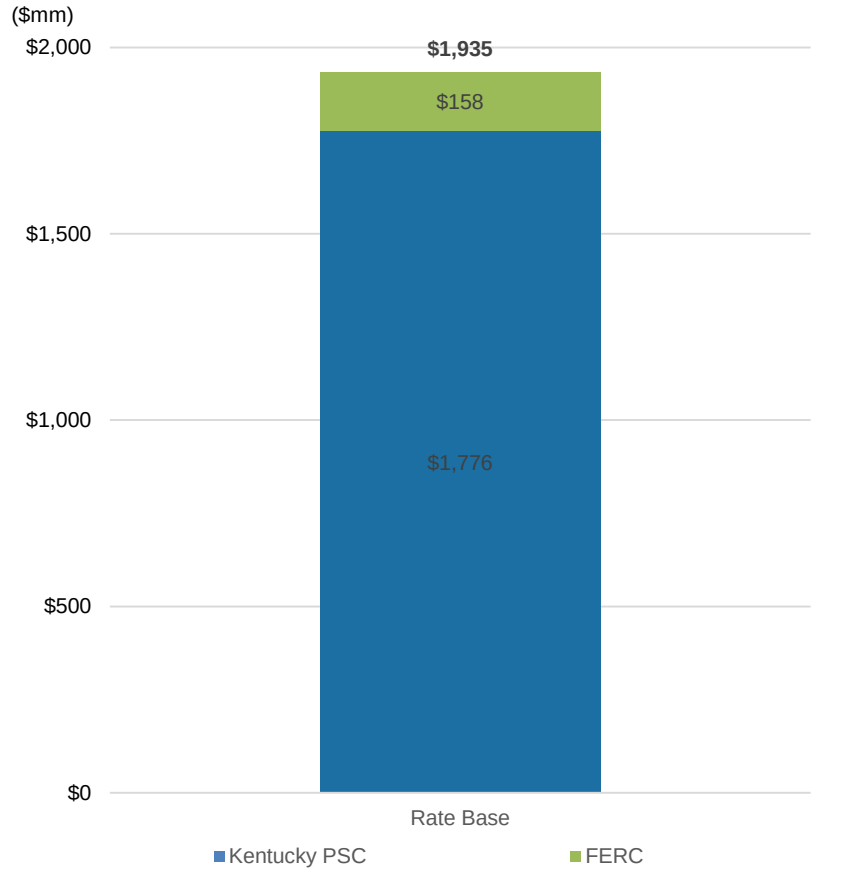
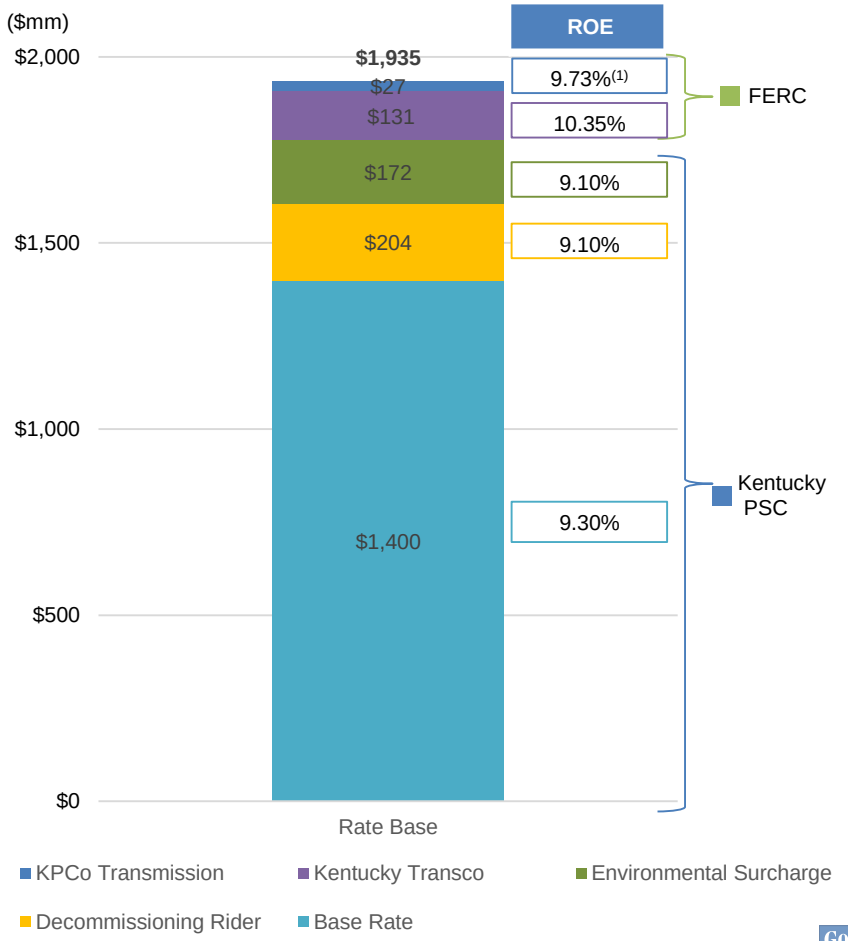
Rate Base Breakdown

As of the test year ending March 31, 2020, the Company's approved rate case was $1,935 million

Rate Base By Regulatory Jurisdiction



Rate Base By Category



Note: Kentucky PSC figures per the rate case test year ending March 31, 2020. Kentucky Transco figures are for full year 2020.

1. *Moody's Baa index + 585 bps.*

Rockport Deferral Mechanism

Overview	▪ As part of its 2018 Rate Order, KPCo agreed to defer a portion of the recovery of non-fuel and non-environmental lease expenses incurred for power purchased from the Rockport plant over the period January 2018 through December 2022
Deferral Timeline	▪ KPCo will defer a maximum of $50 million in non-fuel, non-environmental expenses related to the Rockport UPA as follows: – $15 million annually in both 2018 and 2019 – $10 million in 2020 – $5 million in both 2021 and 2022 ▪ Deferral will begin January 2018 and will continue through the end of the Rockport UPA in December 2022
Monthly Carrying Charges	▪ In total ~$9 million of carrying charges will be recovered over the deferral of the $50 million Rockport expenses – Charges began in February 2018 based on prior month deferral balance – Carrying charges are based on a pre-tax WACC of 7.88% – Calculation is net of Accumulated Deferred Income Taxes (“ADIT”) – Monthly calculation of carrying charges will continue until the Rockport Plant regulatory asset is fully recovered
Additional Recoveries	▪ Additional expenses reflecting the declining deferral amount in years 2020 through 2022 will be recovered through KPCo’s tariff PPA rider as follows: – $5 million in 2020 ($15 million less $10 million) – $10 million in both 2021 and 2022 (prorated through December 8, 2022) ($15 million less $5 million) – KPSC approved recovery of the deferral balance in their order on rehearing
Recovery of Costs	▪ KPCo’s recovery of deferred costs will begin in December 2022, but the amortization period will be approved in future proceedings ▪ KPCo currently plans to file during summer 2021 advising the Commission how the capacity will be replaced

“[KPSC] finds that the costs to be recovered by [KPCo] for its UPA are established by [FERC], and…[KPSC] has no discretion to deny recovery of those costs…under these circumstances, [KPCo] is correct that the recording of a deferred asset is not just for accounting purposes but is to reflect the future rate recovery of the deferred UPA costs.”

– KPSC Rehearing Order, February 27, 2018

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Grid Modernization and Technology Investment Initiatives

KPCo's advanced metering infrastructure and Grid Modernization Rider ("GMR") requests demonstrate the Company's continued commitment to advanced technology and grid modernization approaches

Overview of AMI

- KPCo proposed the replacement of Automatic Meter Reading ("AMR") with AMI meters due to the age and life expectancy of outstanding meters and the technological obsolescence of the current Standard Consumption Messaging ("SCM") platform that the AMR meters use
- AMI has become the industry standard for metering over the last decade, due to the continued advancement of technology and wireless communication
- AMI meters are widely considered to be an integral, essential, and required component of the electric grid in order to provide reliable and cost-efficient service to all customers
- Customers who are aware they have AMI meters are on average 18 index points more satisfied, according to a 2019 JD Power Survey

Grid Modernization Rider

- The Grid Modernization Rider is the proposed recovery mechanism for projects to modernize the distribution grid or to improve its reliability and resiliency
- GMR was proposed to recover capital, including carrying costs, and incremental operation and maintenance expense associated with the AMI project along with future distribution grid modernization expenses approved by the Commission in future proceedings
- The Company proposed to install more than 172,200 AMI meters from 2021 to 2024, with an estimated cost of $36.9 million
- AMI meters would lead to more accurate billing and a reduction in estimated bills due to meter errors

Other Modernization Programs

Program	Benefits
Distribution Automation and Circuit Reconfiguration	Provides a system to remotely monitor, coordinate, and operate distribution circuit equipment
Volt VAR Optimization (VVO)	Reduces circuit demand and energy consumption by flattening and lowering voltage on the circuit while maintaining consumer service voltage standards. KPCO plans to Implement customer and grid Energy Efficiency programs, including VVO, reducing energy requirements by over 38 GWh and 10 MW of capacity by 2034

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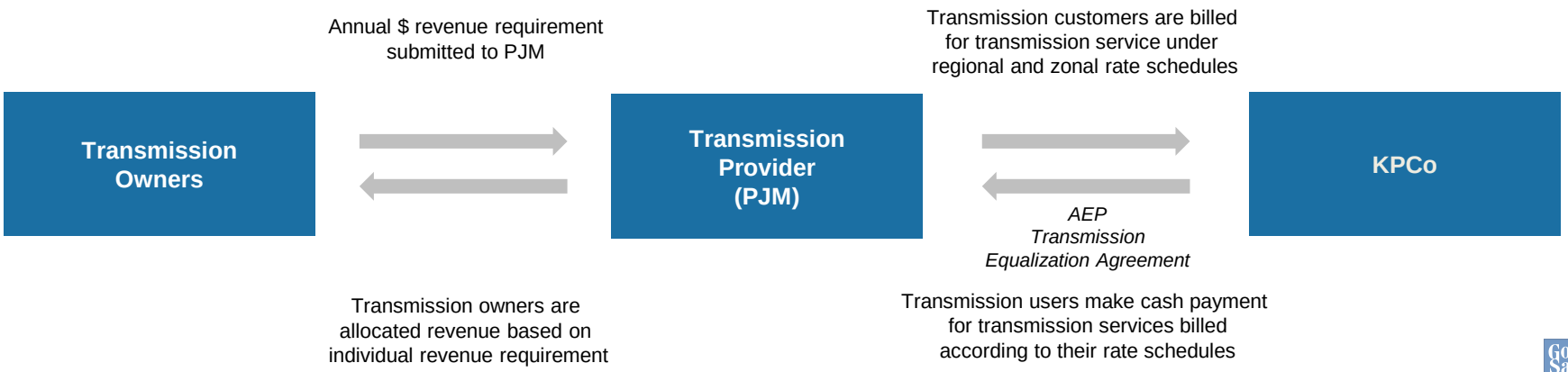
PJM OATT Overview

Overview

- Transmission owners submit their Annual Transmission Revenue Requirements ("ATRR") to the Regional Transmission Organization ("RTO"), PJM
- PJM then charges its transmission customers, who are mostly Load Serving Entities, under their respective Open Access Transmission Tariffs to collect the revenue requirement of all transmission owners
  - As such, the RTOs serve as a clearing house for transmission owners
  - KPCo is a member of AEP's FERC-approved Transmission Agreement ("TA")(1)
  - The AEP TA allocates the total AEP LSE OATT charge to the AEP East companies based on their 12 Coincident Peak share of the system cost
  - Current approved formula rate for KPCo contains a 10.35% ROE(2) and is tied to the other AEP East companies
- Prior to the most recent rate case, Kentucky Power recovered 80% of the PJM LSE OATT charges above or below the amount established in base rates, with 20% of the charges credited to or collected from customers
  - Kentucky Power applied to increase this to 100% recovery of the PJM LSE OATT charge, stating that this charge was the largest single growing charge / cost for Kentucky Power in terms of its cost to serve customers and was largely outside of its control
  - This single expense represents 16% of the Company's total proposed revenues – currently ~$97 million
  - The KPSC granted this request through the PPA Tariff until the next rate case when the item will be revisited

Party Interaction

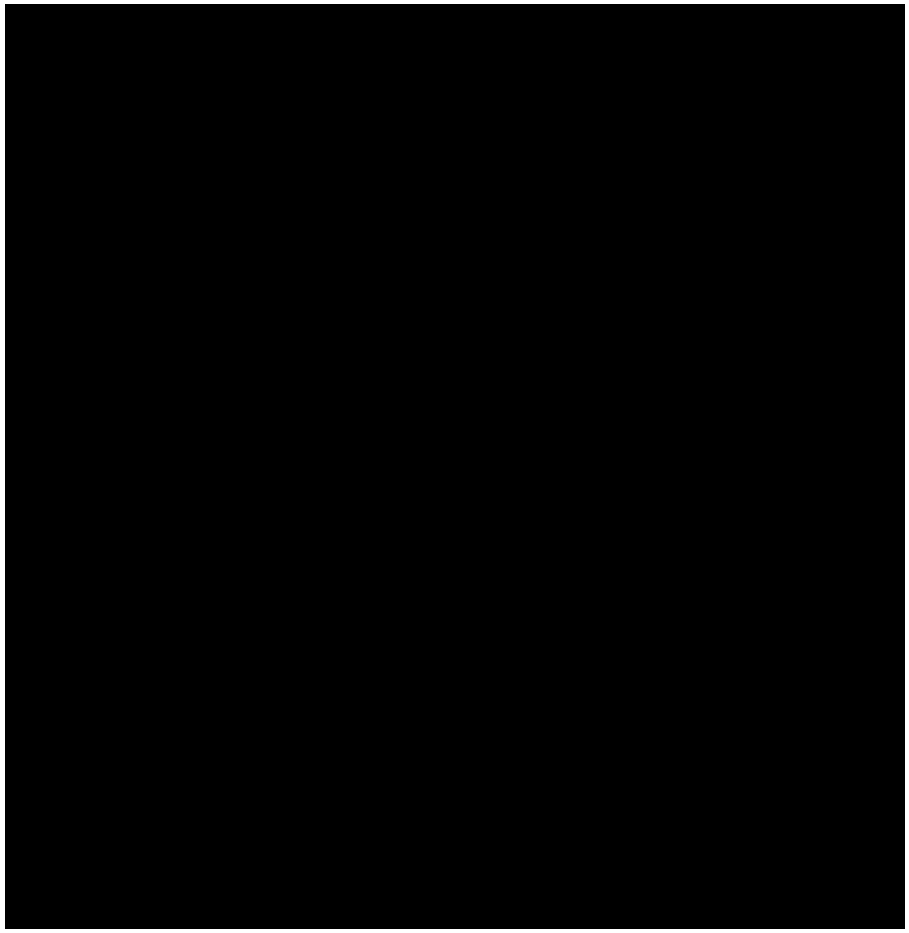


1. *Any member looking to exit AEP's Transmission Agreement would need to file an OATT formula rate with FERC.*
2. *ROE rate comprising of a 9.85% base rate plus a 0.50% RTO incentive adder.*

Impact of Tax Reform

Provision	2021 Revenue Requirement Impact
Tax Rate Reduction to 21%	▪ The commission approved the use of a 21% corporate income tax rate in the gross-up factor calculation ▪ The tax rate reduction on regulated utilities resulted in excess ADIT balances that were to be returned to ratepayers. The Tax Cuts and Jobs Act (“TCJA”) separated the excess ADIT into two categories: protected and unprotected
Excess Deferred Income Taxes	▪ The TCJA normalization rules apply to return of the excess protected ADIT, whereas the return of the unprotected excess ADIT is not governed by normalization rules ▪ The prior agreed upon 18-year amortization of the unprotected excess ADIT can be modified – The balance of the unprotected excess ADIT is estimated to be $81,011,186 for 2021. Using a gross revenue conversion factor of 1.34482, the estimated revenue credit is $108,945,504 for unprotected excess ADIT – Historically, Kentucky Power’s protected excess ADIT is ~$3.6 million per year ▪ The Commission granted KPCo permission to use the unprotected excess ADIT to mitigate the impact of the rate increase on their customers, currently amortized over 2021-2023

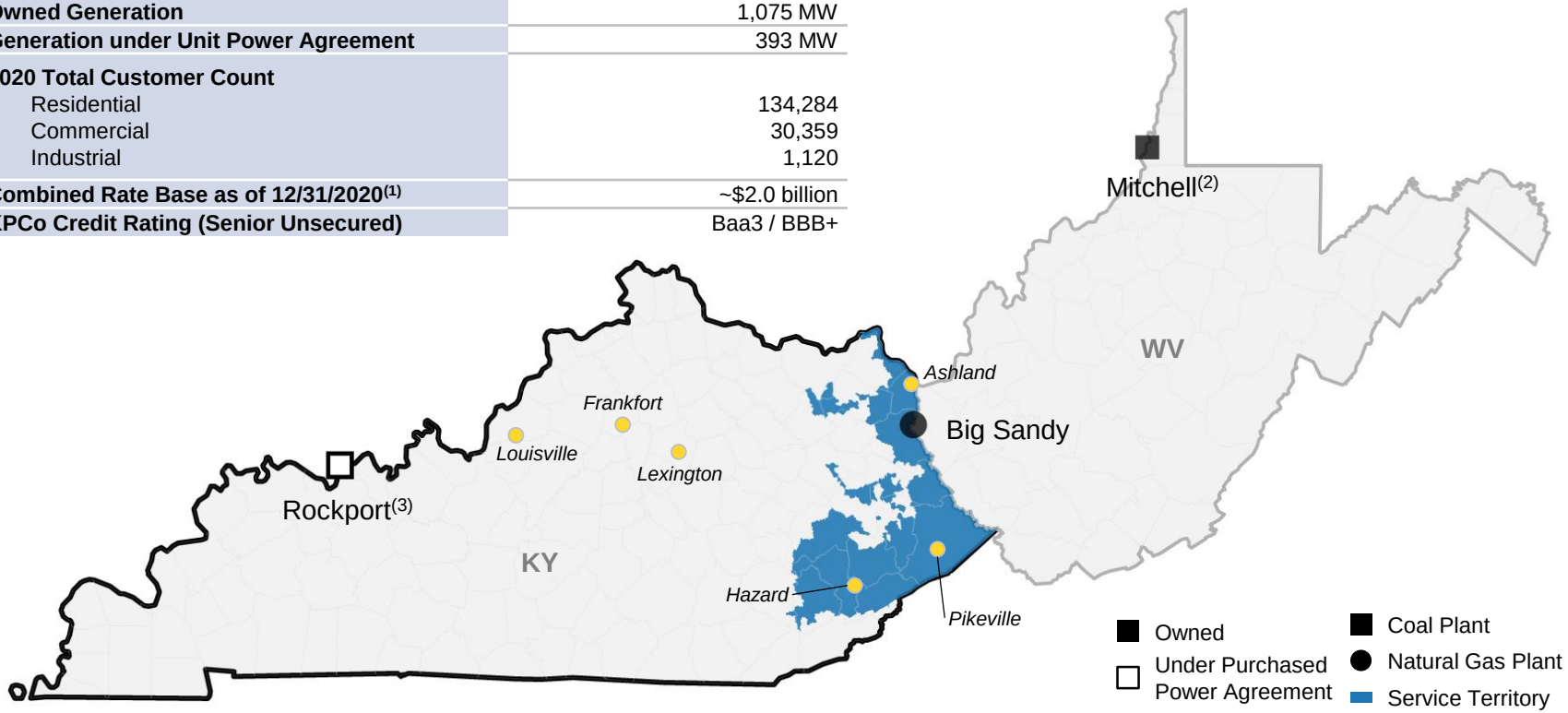
Calculation of Annual Revenue Credit



UTILITY OPERATIONS

Geographic Footprint

Key Facts	
2020 Energy Sales	5,260 GWh
2020 Peak Demand (MW / date)	1,168 MW / January 22, 2020
Avg. Annual Use per Residential Customer	14,820 kWh
Avg. Cost per kWh for Residential Customers	11.87 cents
Distribution Lines	10,032 miles
Transmission Lines	1,236 miles
Owned Generation	1,075 MW
Generation under Unit Power Agreement	393 MW
2020 Total Customer Count	
Residential	134,284
Commercial	30,359
Industrial	1,120
Combined Rate Base as of 12/31/2020[1]	~$2.0 billion
KPCo Credit Rating (Senior Unsecured)	Baa3 / BBB+



1. *Includes Kentucky Transco.*
2. *KPCo owns 50% of the Mitchell plant; AEP subsidiary Wheeling Power owns the remaining 50%. The plant is located in Moundsville, West Virginia.*
3. *Rockport is 50% owned by AEP Generating Company. The plant contributes 393 MW (15% of its total capacity) to KPCo's generating capacity through a unit power agreement. The plant is located in Rockport, Indiana, on the border with the state of Kentucky. The Rockport UPA expires on December 7, 2022.*

Generation Overview

Owned Generation

Plant	Location	COD	Type	Share of Installed MW	Entitlement	Fuel Storage Capacity (tons)	Emissions Control
Mitchell Unit 1	Moundsville, WV	1971	Coal	390	50%	500,000	Low NO_x burner; SCR; Wet FGD; SO_3 mitigation; ESP
Mitchell Unit 2	Moundsville, WV	1971	Coal	390	50%	500,000	Low NO_x burner; SCR; Wet FGD; SO_3 mitigation; ESP
Big Sandy Unit 1	Louisa, KY	1963/2016[1]	Natural Gas	295	100%	N/A	Low NO_x burner
Total				**1,075**			

Contracted Generation

Plant	Location	COD	Type	Share of Installed MW	Entitlement	Fuel Storage Capacity (tons)	Emissions Control
Rockport Unit 1[2]	Rockport, IN	1984	Coal	198	15%	1,100,000	SCR; DSI; ACI; ESP; Low Nox burners; Overfire Air for NOx control
Rockport Unit 2[2]	Rockport, IN	1989	Coal	195	15%	1,100,000	SCR; DSI; ACI; ESP; Low Nox burners; Overfire Air for NOx control
Total				**393**			

Note: SCR = Selective Catalytic Reduction, Wet FGD = Flue Gas Desulfurization, DSI = Dry Sorbent Injection, ACI = Activated Carbon Injection, ESP = Electrostatic Precipitator.

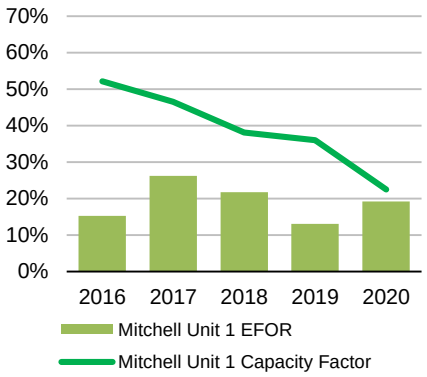
1. *Entered commercial operation as a coal plant in 1963. The unit was converted to fire on natural gas in 2016.*
2. *Lease 393 MW per UPA, set to expire in 2022.*

Mitchell Plant

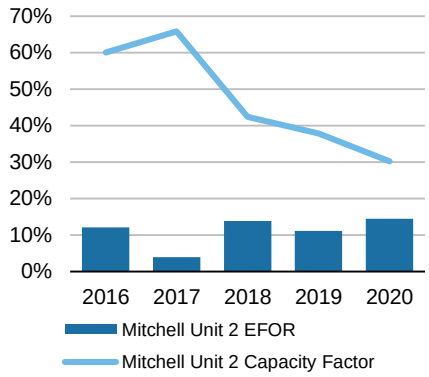
Project Overview	
Owned Capacity[1]	780 MW
Fuel Type	Coal
Primary Mover	Steam Turbine
2020 Coal Use	~1.5 million tons per year
Units	2
COD	1971
Location	Moundsville, West Virginia
KPCo Ownership[1]	50%
Employees	184
Water Source	Ohio River
Non-Fuel O&M / MWh[2]	$6.09
2020 Net Generation	1,806,566 MWh[3]
2020 Capacity Factor	26.37%
2020 Heat Rate	10,681 Btu/kWh

Reliability & Capacity Factor

Mitchell Unit 1



Mitchell Unit 2

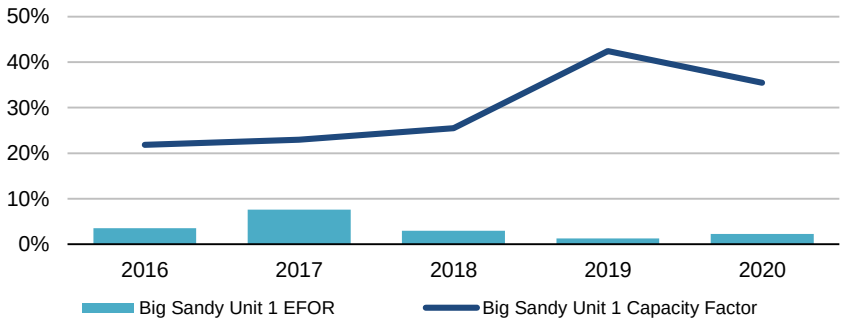


1. *KPCo operates and owns 50% of the Mitchell plant; Wheeling Power, an AEP subsidiary, owns the remaining 50%.*
2. *Generation Availability Data System ("GADS") data as of December 2020 on a YTD basis.*
3. *Represents KPCo's 50% ownership.*

Big Sandy Plant

Project Overview	
Owned Capacity	295 MW
Fuel Type	Natural Gas
Primary Mover	Steam Turbine
Natural Gas Use(1)	2.3 million cubic feet per hour
Units	1
COD	1963/2016
Location	Louisa, Kentucky
KPCo Ownership	100%
Employees	26
Water Source	Big Sandy River
Non-Fuel O&M / MWh(2)	$4.10
2020 Net Generation	912,369 MWh
2020 Capacity Factor	35.47%
2020 Heat Rate	9,895 Btu/kWh

Reliability & Capacity Factor Since Conversion



1. *Represents natural gas usage when Unit 1 is online.*
2. *Excludes costs at Big Sandy Unit 2. Support functions are being reviewed inclusive of FTEs, systems, contracts, or a combination thereof, which may transfer depending on buyer requirements.*

Big Sandy Plant Decommissioning Update

Overview	
Overview	▪ Big Sandy Unit 1 coal-fired unit operated from 1963 until November 2015 ▪ Big Sandy Unit 1 conversion completed May 30, 2016 with a 295 MW natural gas powered operating capacity ▪ The coal-fired Big Sandy Unit 2 operated from 1969 until being decommissioned in May 2015 ▪ Inactive coal plant bottom ash and fly ash ponds currently being closed at a cost of $96.8(1) million, per 2020 4th quarter closure report – Bottom ash pond was clean closed and repurposed in Q3 2019 – Fly ash pond was dewatered and capped end of November 2020
Costs	▪ All decommissioning costs are ongoing and will be recovered through the Decommissioning Rider through 2040
Conversion Recovery Progress	▪ Big Sandy Unit 1 conversion costs part of base rates since 2018 Rate Order
Realized Benefits	▪ Cleaner fuel helping KPCo stay below emission requirements ▪ Actual capacity factor exceeds level anticipated in analysis approved by Commission ▪ Ability to earn a regulated return on decommissioning costs at the weighted average cost of capital

Decommissioning Costs(2)

	Costs *($ millions)*
Regulatory Asset Balance(3)	$300.2
Spent to Date	$90.3
Remaining Budgeted Future Spend	$6.5
Total Estimated Decommissioning Cost(1)	**$96.8**

Notes on Decommissioning

- Does not include removal; represents net book value at retirement only
- Collected on a levelized basis over 25 years
- Rates updated annually
- Remaining Budgeted Future Spend based on current remaining decommissioning budget (including all coal-related assets and ash ponds)

1. *Reflects the coal portion of unit 1 and unit 2.*
2. *Per 2020 4th quarter closure report.*
3. *Balance per August 2020 rate update filing for the Decommissioning Rider.*

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Rockport Unit Power Agreement ("UPA")

- Rockport Plant is owned (Unit 1) or leased (Unit 2) by AEP Generating Company ("AEGCo") (50%) and Indiana Michigan Power Company ("I&M") (50%), two AEP subsidiaries
- AEGCo sells 30% of its share of energy and capacity to KPCo pursuant to an assignment agreement between I&M and KPCo and a UPA between AEGCo and KPCo
  - I&M is entitled to the remaining 70% of the capacity and energy; upon expiration I&M receives 100% of the capacity
  - KPCo's UPA for 393 MW is set to expire in December 2022
- Rockport UPA non-fuel, non-environmental costs are recovered through base rates
  - Fuel costs (purchased power) are recovered through the fuel clause
  - Environmental costs are recovered or trued up through the Environmental Surcharge

Environmental Overview

	Big Sandy	Mitchell
Coal Combustion Residuals ("CCR") Related	▪ Fly ash pond subject to groundwater monitoring per the CCR Rule and no remedial actions are currently required ▪ Former bottom ash pond has been closed by removal of ash and the area is not subject to the CCR rule ▪ Fly ash pond has been capped and closed in place and is subject to the CCR rule post-close care requirement	▪ Operates a dry fly ash system and onsite landfill for disposal ▪ Operates a wet bottom ash system and bottom ash pond ▪ Gypsum from flue gas desulfurization system transported offsite to 3rd party wallboard manufacturer ▪ Bottom ash pond subject to groundwater monitoring per the CCR Rule and no remedial actions are currently required ▪ On August 31, 2020, the EPA issued revisions to the rule to include a requirement that unlined CCR storage ponds, such as the Mitchell bottom ash pond, must cease operations and initiate closure by April 11, 2021 ▪ Request pending with EPA for extensions of the CCR compliance deadline to cease operation of the bottom ash pond
Water Related	▪ Water intake from Big Sandy River ▪ Wastewater discharge regulated by NPDES permit ▪ Effluent Limitation Guidelines not expected to impact the facility	▪ Water intake from Ohio River ▪ Wastewater discharge regulated by NPDES permit ▪ Effluent Limitation Guidelines ("ELG") will require installation of a dry bottom ash handling system and bio-reactor treatment system for FGD wastewater
Air Related	▪ Low NOx burners for NOx control ▪ Emissions regulated by Title V and Title IV permits ▪ No additional emission controls anticipated to meet current or reasonably expected future regulations	▪ Both units are equipped with: SO3 mitigation controls, low NOx burners, selective catalytic reduction, flue gas desulfurization and electrostatic precipitator emission controls systems ▪ Emissions regulated by Title V and Title IV permits ▪ No additional emission controls anticipated to meet current or reasonably expected future regulations

Big Sandy and Mitchell are in compliance with current environmental requirements

Overview of Environmental Capex

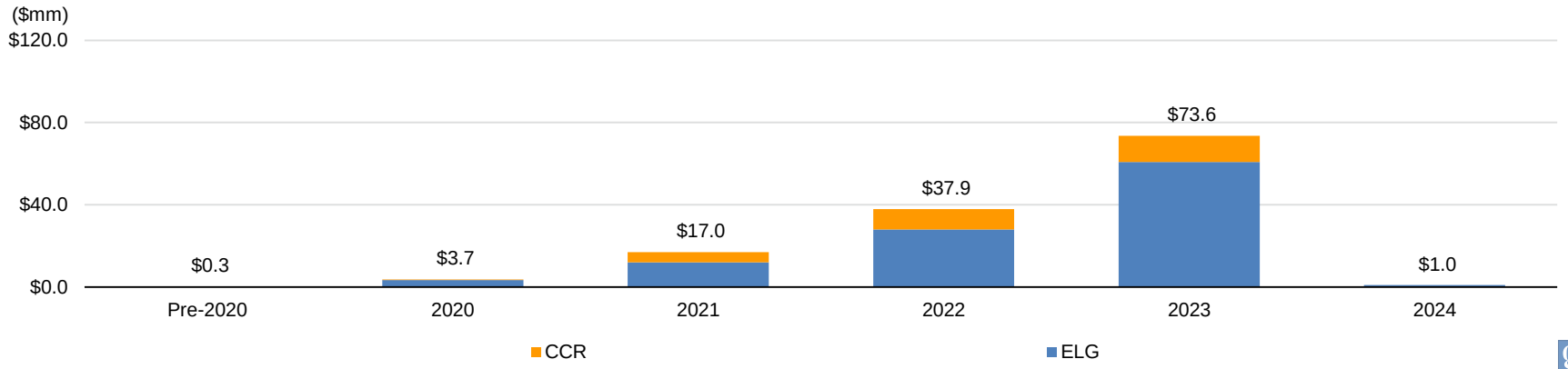
Coal Combustion Residuals ("CCR") Overview

- In 2015, the EPA regulated the disposal and beneficial re-use of CCR and flue gas desulfurization
- The rule imposes construction and operating obligations, including location restrictions, liner criteria, structural integrity requirements for impoundments, operating criteria and additional groundwater monitoring requirements
- On August 31, 2020, the EPA issued revisions to the rule to include a requirement that unlined CCR storage ponds must cease operations and initiate closure by April 11, 2021
  - The EPA provided two possible extensions of that date to allow facilities either (1) to develop alternative ash disposal systems or (2) to have additional time to complete closure of ash ponds if they cease coal-based generation operations
  - The deadline for facilities to request either extension was November 30, 2020
  - After extensions, 2023 closure of Mitchell if not compliant

Effluent Limitation Guidelines Overview

- In 2015, the EPA issued an initial rule revising effluent limitation guidelines ("ELGs") for electric generating facilities, which established limits on FGD wastewater, fly ash and bottom ash transport water, and flue gas mercury control wastewater
- In October 2020, EPA finalized revisions to the ELG rule which establishes discharge limits that must be achieved as soon as possible between October 13, 2021, and December 31, 2025
  - The revised requirements eliminate the use of the existing bottom ash ponds at the facilities and require the installation of dry bottom ash handling systems and bioreactor wastewater treatment systems
  - The revised ELG rule also has a retirement option which allows continued discharges in exchange for a commitment to retire the affected facility by December 31, 2028. For Mitchell, the retirement option requires that the West Virginia Department of Environmental Protection be notified by October 13, 2021

Mitchell CCR and ELG Cost Estimate



Recent Mitchell Regulatory Filings

KPCo and Wheeling Power have made filings with state commissions with respect to potential environmental compliance capital spending at Mitchell

Overview

- On November 30, 2020, Kentucky Power, in conjunction with Wheeling Power, filed their Notice of Intent to Comply with the EPA. The notice contained a request for an extension to permit the Mitchell bottom ash pond to continue receiving waste streams after the April 11, 2021, deadline for discontinuing receipt of coal combustion residuals and non-CCR waste streams
  - Each company has a 50% share in the Mitchell power plant
  - Both KPCo and WPCo may continue operating the Mitchell Plant after December 31, 2028, by making the additional capital investment in dry ash handling along with waste water treatment equipment required to comply with the ELG rule, which requires that discharge limits must be achieved as soon as possible before December 31, 2025
- In addition to the Notice of Intent, Kentucky Power and Wheeling Power filed Certificates of Public Convenience and Necessity in regards to the future of Mitchell on February 8, 2021, and December 23, 2020, respectively
  - The fillings estimate that total capital spending (for both KPCo and WPCo) required to continue operating Mitchell through 2040 would cost ~$133.5 million
  - The Kentucky statutory timeline to the CPCN filing is 6-months, indicating a response is expected by August 8, 2021; hearings are currently scheduled for June 15-17, 2021

Key Takeaways from KPCo and WPCo's CPCN Filing

- The $133.5 million of capital investments will enable Mitchell to meet the requirements of the CCR Rule and ELG Rule and operate though 2040
- The companies used an NPV analysis on the following primary two scenarios to evaluate the incremental cost of retiring Mitchell in 2028
  - Scenario 1: CCR and ELG compliance case with a 2040 retirement of Mitchell
  - Scenario 2: CCR only with a 2028 retirement of Mitchell
  - Scenarios 1 and 2 were run under three different pricing cases: (i) base with carbon, (ii) base with no carbon and (iii) low no carbon[2]
- The NPVs of the two primary scenarios are very close relative to the overall cost to customers

NPV Analysis[1]

	Base With Carbon	Base No Carbon	Low No Carbon
	NPV of forecasted cost of service difference between a retirement of Mitchell in 2040 vs. a 2028 retirement		
KPCo's Analysis	($6) million	$27 million	$20 million
WPCo's Analysis	($9) million	$2 million	($14) million

In addition, WPCo analyzed a third scenario where Mitchell is retired in 2028 and WPCo receives power from excess capacity supply in Appalachian Power Company ("APCo"). This scenario is estimated to be ~$212 million NPV positive for WV customers

1. *Positive NPV values indicate that a 2028 retirement of Mitchell is expected to result in higher customer cost than a 2040 retirement, while negative NPV values indicate that a 2028 retirement of Mitchell is expected to result in a lower customer cost than a 2040 retirement.*
2. *The base no carbon and low no carbon pricing cases assume there will be no regulations limiting CO2 emissions throughout the entire forecast period; the low no carbon case considers lower North American demand for electric generation & fuel and, consequently, lower fuel prices.*

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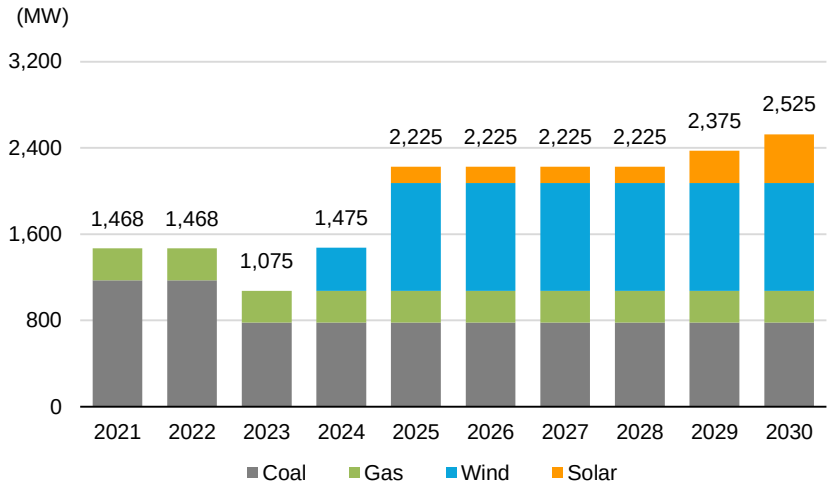
Overview of New Generation Plan

Overview

- The generation plan assumes that KPCo's existing generation facilities, Big Sandy and Mitchell, continue operating through 2030 and 2040, respectively
- In addition, 1.45 GW of new renewable capacity is projected to be added through 2030
  - The new resources are assumed to be owned by the Company, subject to Kentucky PSC approval of the resources and ownership
- The plant estimates the following cost for new additions:
  - Assumes construction costs of ~$1,350/kW[2] and ~$1,110/kW[2] for wind and solar, respectively
  - Assumes total levelized O&M[3] costs of ~$12.00/MWh[4] and ~$9.75/MWh[4] for wind and solar, respectively

Nameplate Capacity Mix[1]



Capacity Mix[1]

(MW)	2021	2022	2023	2024	2025	2026	2027	2028	2029	2030
Mitchell	780	780	780	780	780	780	780	780	780	780
Rockport	393	393	--	--	--	--	--	--	--	--
Big Sandy	295	295	295	295	295	295	295	295	295	295
Owned Wind	--	--	--	400	1,000	1,000	1,000	1,000	1,000	1,000
Owned Solar	--	--	--	--	150	150	150	150	300	450
Total	**1,468**	**1,468**	**1,075**	**1,475**	**2,225**	**2,225**	**2,225**	**2,225**	**2,375**	**2,525**

Note: Assumptions based on current information and subject to change at any time.

1. *Assumes 2040 Mitchell retirement.*
2. *2024 dollar values growing on average ~1.2% and ~0.2% per year for wind and solar, respectively, from 2024-2030.*
3. *O&M $/MWh figures exclude property taxes.*
4. *2024 dollar values growing on average ~2.4% and ~2.2% per year for wind and solar, respectively, from 2024-2030.*

Transmission System

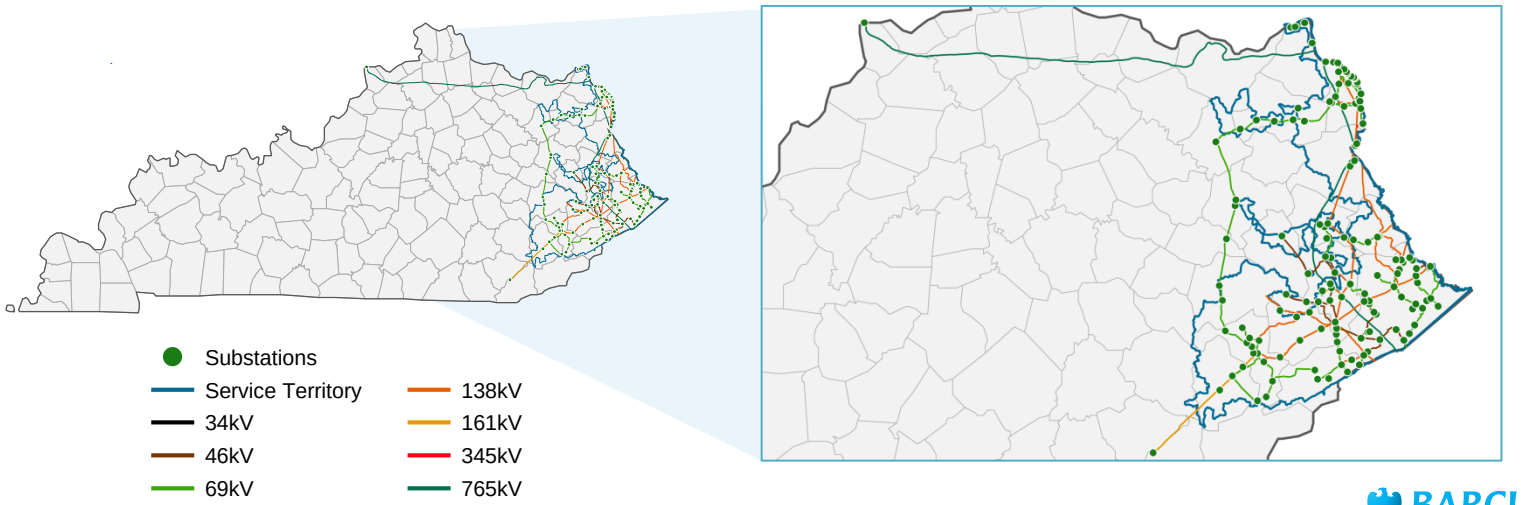
System Highlights

- Key transmission investment goals are: maintain system reliability, replace obsolete or deteriorating equipment & facilities, relieve transmission congestion, interconnect new generation resources, meet customer demand and improve grid resilience
  - In recent decades the majority of transmission investment has been directed towards constructing facilities to address RTO identified constraints due to a shift in generation portfolio
- Aging infrastructure represents an opportunity for investment at KPCo
  - KPCo prioritizes transmission projects based on the performance and condition of each asset and the risk that the failure of each poses to the system and connected customers
  - 10% of transmission miles in the portfolio are at least 60 years old(1)
  - Renewal opportunity over next ten years for 336 line miles, 45 transformers and 74 circuit breakers

Key Statistics

Circuit Mileage	KPCo	Miles > 60 Years(1)
765kV	256	–
345kV	8	8
161kV	47	–
138kV	356	55
69kV	415	49
46kV	153	8
34.5kV	1	1
TOTAL	**1,236**	**121**

System Map



1. *Reflects the minimum line miles over 60 years old as some of the line miles have an unknown age.*

Transmission Operations

Transmission Overview

- AEP centrally plans, engineers and operates its transmission assets from 34.5kV to 765kV in Michigan, Indiana, Ohio, Kentucky, West Virginia and Virginia, including the transmission assets of KPCo and Kentucky Transco, as an integrated transmission system
- KPCo and Kentucky Transco are part of the AEP zone of PJM
- KPCo is a party to AEP's Transmission Equalization Agreement, which defines how PJM OATT charges are allocated to the AEP's eastern load serving entities
- ~81 FTEs provide transmission services to varying degrees for KPCo and Kentucky Transco assets and all these FTEs are AEP Service Corporation employees. An evaluation is underway on how many of these FTEs would become part of KPCo after the sale and continue to provide these services for non-EHV assets
- The 12-month rolling average SAIDI contribution for KPCo transmission assets is 34.9 minutes as of December 2020

Transmission Employees

- Transmission staff have a Zero Harm focus with an outstanding safety record
- Centralized staff outside the KPCo service territory provide a significant number of key transmission functions for KPCo and Kentucky Transco assets:
  - Planning, engineering, project management and construction management
  - Transmission Operations functions
  - Regulatory, policy and financial management
  - Siting, outreach and right-of-way management
  - PJM policy, planning and operation coordination
  - Forestry management
- Employees located in the KPCo service territory perform the following key functions for KPCo and Kentucky Transco assets:
  - First responder for system problems
  - Storm assessment and restoration including coordination of contractors and mutual assistance resources
  - Line and station protection, control equipment inspection, maintenance, troubleshooting and repair
  - NERC compliance activities
  - Small capital project construction
  - Right-of-way negotiation and acquisition
  - Safety

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Kentucky Transco Overview

- Formed in 2009 to invest capital in AEP's transmission system through constructive FERC regulatory regime & rates as well as to take advantage of more favorable cost of capital for transmission assets
  - Favorable regulatory framework including forward-looking formula rates, true-up mechanisms and allowed returns on equity of 10.35%, comprised of a 9.85% base rate plus a 0.50% RTO incentive adder, on a maximum 55% equity capitalization; there is limited revenue risk as Kentucky Transco has a strong counterparty in the PJM Interconnection
  - AEP formed Kentucky Transco as a financial vehicle to help support significant opportunities in transmission investments without overburdening Kentucky Power's finances and minimize regulatory lag
- Kentucky is currently one of seven state Transcos that develop, own and operate new transmission assets that are physically connected to AEP's existing system of ~7,800 circuit miles with voltage levels ranging from 23 kV to 765 kV
  - Affiliates and non-affiliates part of the AEP East Zone share cost of transmission upgrades in accordance with PJM's FERC-approved tariffs and AEP Transmission Agreement for Transmission Investment based on load share
- Project selection guidelines include:
  - Transmission assets designed and operated at voltages of 23 kV or higher
  - For power transformers, both primary and secondary transformer voltages must meet the above voltage criteria and the transformer must provide a transmission function; this restriction does not apply to auxiliary or station service transformers in a station
  - Transco will build/own only those facilities that may be recovered from transmission service customers through the RTO's FERC-approved OATT, either through a rate of general applicability or by direct assignment to transmission customers
  - The assets financed by Kentucky Transco are planned, maintained and operated just like other Kentucky Power transmission assets and are embedded in the network
- Future transmission investment through the Kentucky Transco could be driven by:
  - Rebuild of existing transmission infrastructure at KPCo
  - Telecommunication modernization by investment in fiber to improve resilience, cyber security, operations and real-time monitoring
  - Construction of new facilities to support economic development and customer interconnections
  - Projects assigned to AEP from regional planning initiatives conducted by PJM
- Kentucky Transco is subject to FERC and to certificate authority of the Kentucky State Board on Electric Generation and Transmission Siting, but not subject to the regulatory authority of the KPSC
  - In June 2013, KPSC ruled that Kentucky Transco was not subject to their jurisdiction as Kentucky Transco does not provide state-regulated service

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Transmission Formula Rate

Kentucky Transco Formula

Operating Expenses	+ Projected O&M Expense, Depreciation and Amortization ("D&A") Expense, Tax Expense
Rate Base	+ Forward 13-Month Average Plant In-Service, Average Working Capital - Forward 13-Month Average Accumulated D&A, Average Deferred Income Taxes
WACC	x Forward 13-Month Average Capital Structure *(Assumes 10.35% ROE[(1)])*
Prior Year (Over) / Under Recovery	+ Annual true-up revenue amount to (return) / collect any (over) / under recovery of revenues
Revenue Requirement	**= Annual Transmission Revenue Requirement for collection during Rate Year**

Note: PJM previously adopted a forward-looking mechanism.

1. *ROE rate comprising of a 9.85% base rate plus a 0.50% RTO incentive adder.*

Distribution System

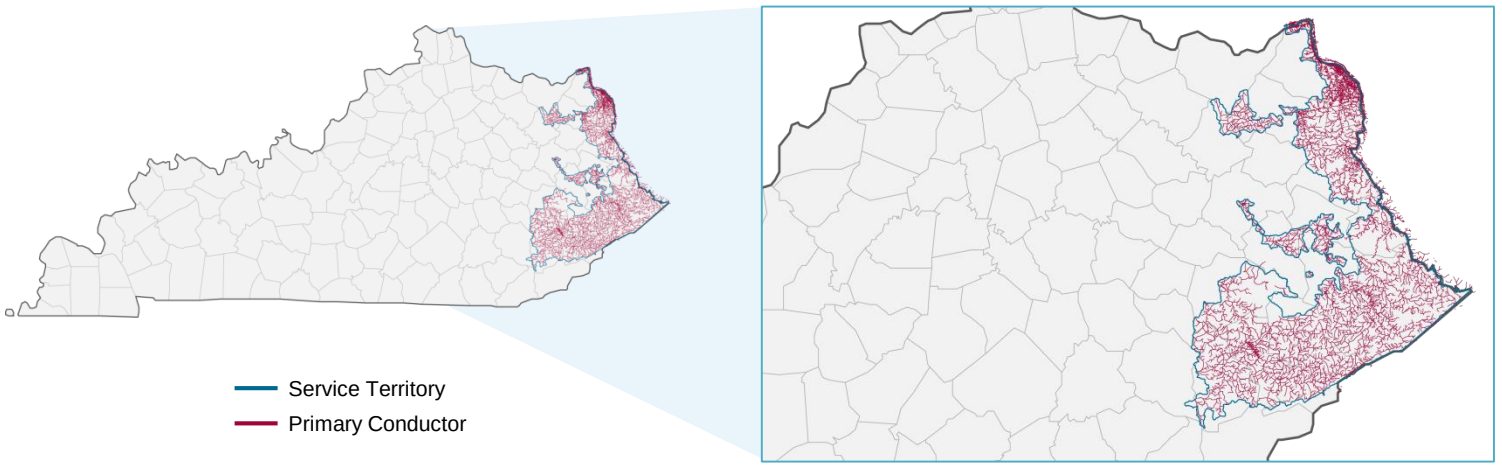
System Highlights

- Investments in grid redundancy programs such as circuit distribution automation to decrease length of power outages when they do occur
- Comprehensive vegetation management plan designed to be on a five year cycle since 2010
- Enhanced program to remove trees from outside right-of-way (“ROW”)
- Aging infrastructure replacement program
- Pole replacement program
- Cutout equipment failure replacement program
- The distribution group continually evaluates its processes for improvement opportunities

Key Statistics

Service Territory Square Miles	3,787
Overhead Pole Miles	9,850
Underground Circuit Miles	182
Substations	93
Station Transformers	107
Station Breakers	220
Circuits	220
Poles	258,288
Transformers	95,668

System Map



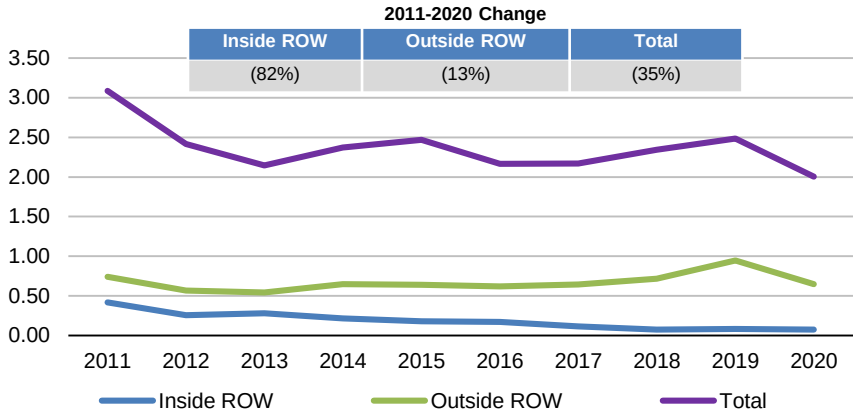
System Reliability

Total SAIDI has declined by 34% over the last 10 years, driven largely by improved reliability inside ROW

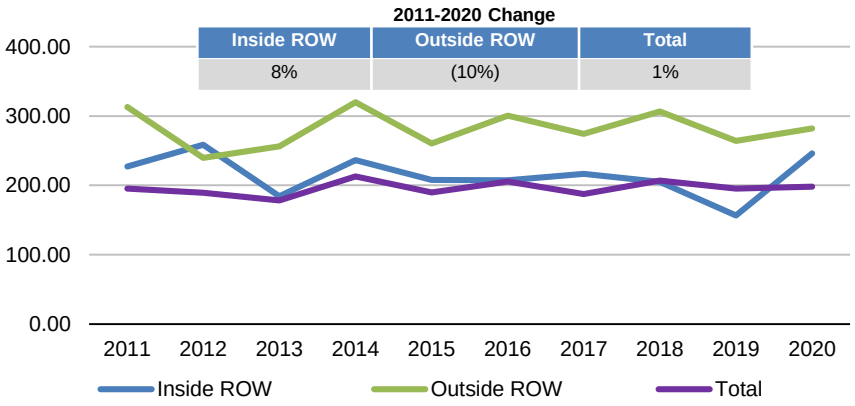
Overview

- Inside ROW SAIDI has improved 81% since 2011
- Grid modernization will improve overall customer experience by increasing system resiliency and decreasing outages
  - KPCo's goal is to reach 25% Distribution Automation Circuit Reconfiguration ("DACR") on circuits by the end of 2025
- Incremental capital plan to deliver SAIDI improvement in the near-term
- The Company is also providing capital investment to remove trees from outside ROW which is now the largest cause of outages due to root rot, oak wilt, Emerald Ash borer, Hemlock Wooly Adelgid, and White Pine blister rust
  - KPCo's goal is to remove 16,000 trees each year

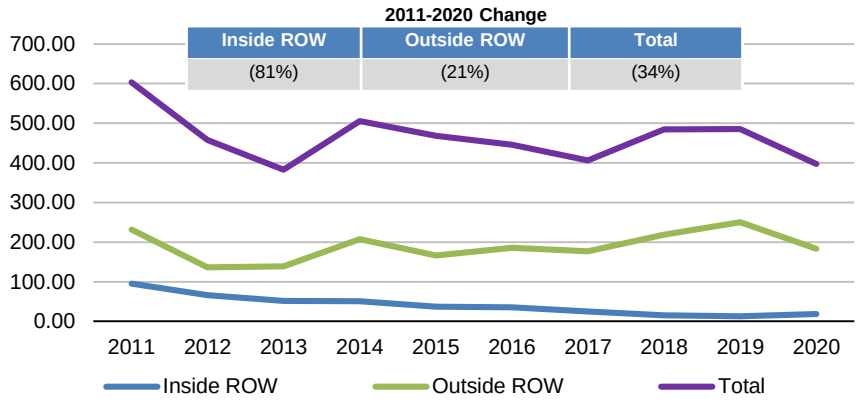
SAIFI Performance (Minutes)(1)



CAIDI Performance (Minutes)(1)



SAIDI Performance (Minutes)(1)



Note: SAIDI = System Average Interruption Duration Index; SAIFI = System Average Interruption Frequency Index; CAIDI = Customer Average Interruption Duration Index.

1. *Inside ROW and Outside ROW are tree-related. Total includes non-tree related items.*

Safety Performance

Safety System and Culture

- Employees receive rigorous safety training, continuously reinforced through job safety briefings, careful review of work procedures and information sharing on hazards & risks to ensure preventative actions are taken whenever possible
- Publish safety guidelines for employees, contractors and customers
- In order to ensure the safety of employees and customers, KPCo has various monthly, quarterly and ad hoc programs in place, including:
  - Contractor Oversight Program
  - Slip Simulator training
  - Safe Pole Handling training
  - Tree and Pole Cutting training
  - High Risk Activities training
  - Occupational Athletics Stretching and Flexing Program
  - Smith Driving training
  - Ticks and Poisonous Snake Awareness
  - Distracted Driving Awareness
  - Good Catch Program
  - Site Wise Guardian Job Site / CORE Visit Observation Program

Key Safety Performance Statistics

[redacted]

[redacted]

EMPLOYEE & CUSTOMER SERVICE

Employee Overview

Key Management, Operations Staff and Employee Distribution *(497 Total)*

Unions

Name	# of Employees	Contract Expiration

1. *Included in the 241 employees reporting to Brett Mattison is one Exec Admin Assistant not shown elsewhere.*
2. *Vacant positions are subject to change based on staffing requirements.*

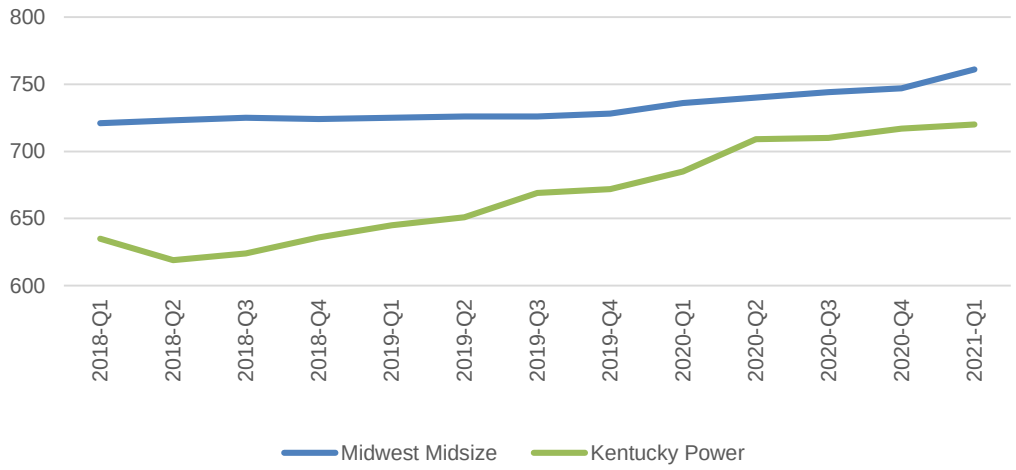
Customer Experience and Improvements

KPCo's vision is that we want customers to feel that we are easy to do business with; they are in control of their account and usage and that we have their best interests in mind. Customer experience isn't just customer service, it is made up of all interactions our customers have with us

Overview

- Customer service has always been a priority for Kentucky Power, with the aim to make the Company "easier to do business with"
- The customer service team plan has clear goals to make proactive calls and meetings with customers
  - The customer service team is devoted to building relationships with commercial and industrial customers, educating them about electrification and new technologies and working with them individually regarding power needs
- Kentucky Power continually works together with customers, policymakers and regulators to drive policies and reforms that enable us to serve customers in ways they expect and deserve

JD Power Overall Satisfaction Trend(1)



Results of Customer Focus

- Kentucky Power's JD Power customer satisfaction scores have been steadily increasing over the past two years, with a significant jump of 68 points from 2018 to 2020
  - A more intensified focus on the customer, and improved and increased communications overall, is evidenced by the upward trend in customer satisfaction
  - Rate cases and large outage events, both of which Kentucky Power has experienced in the past year, will certainly influence scores over the coming months likely causing a slight decrease before rebounding again
- Further, for all utilities, electric utility satisfaction has been impacted by COVID-19. Kentucky Power was ranked #5 overall (out of 143 utilities) for customers having a more positive impression of the brand due to their response to COVID

1. *Satisfaction score based on a 1,000 point scale.*

Community Initiatives

Kentucky Power is proud of the many positive contributions it makes to its community

Community Contributions

- KPCo, with support of AEP's Foundation, gives generously to the communities served with the primary focus on improving the lives of Eastern Kentuckians
- In 2020, Kentucky Power, AEP, and American Electric Power Foundation collectively made over $1.7 million in philanthropic donations and economic development grants in the Commonwealth
- Through the AEP Foundation, Kentucky Power donated an additional $100,000 in emergency COVID-19 funds to support basic human needs and help address the hardships faced by customers and communities in Kentucky
  - Funds went to support food banks, United Way, Save the Children, Appalachian Kentucky Fund and then $50,000 to Gov. Beshear's Team Kentucky Fund

KPCo in the Community

Community Outreach

- KPCo provides both financial support and employee time to support numerous organizations and activities in every corner of its service territory
- Examples of some of the traditional outreach activities include:
  - **Read to Me Day:** KPCo employees visit schools, read aloud to students and then donate the book to the school library; this past year, employees visited 22 schools in six Eastern Kentucky counties
  - **Tree Day:** In celebration of Earth Day and Arbor Day, KPCo collaborates with other community-based organizations and gives away thousands of low-growth tree saplings to customers
  - **Senior Games:** KPCo employees join nearly 400 senior citizens in Knott County for the Kentucky River Area Development District's annual Senior Games, volunteering their assistance in the activities
  - **Power Up the Pantry:** Employees held all day food drives in the Prestonsburg and Hazard areas of the Kentucky Power territory raising $17,000 and collecting 7.5 tons of food and other supplies; this was a Kentucky Power led effort but there were several participating partners

FINANCIAL OVERVIEW

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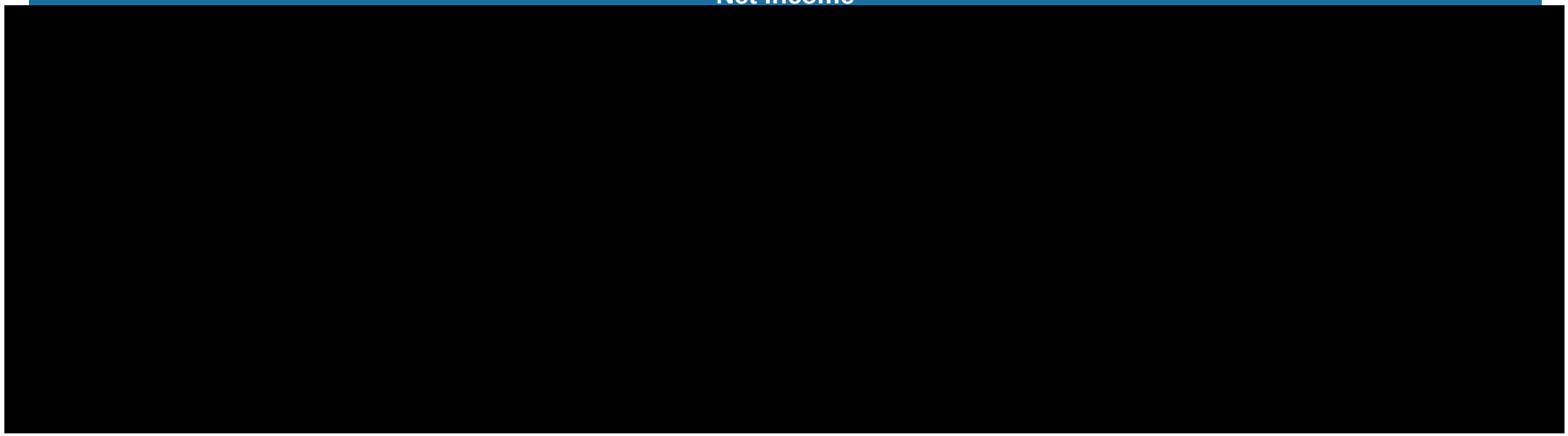
Summary Financials

The Company's substantial forecasted growth is driven by strong investment opportunities and an ability to earn closer to its allowed ROE over time

Net Income



EBITDA

Rate Base Growth

Regulated Utility Rate Base Growth

[redacted]

Capital Expenditures by Segment[1]

[redacted]

[redacted]

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Capex Plan Detail

1. *Includes both KPCo and Kentucky Transco capex.*
2. *Blankets refers to blanket projects where the scope is not yet defined and their value is less than $500,000.*

Projected Load

Overview

- PA Consulting ("PA") was retained to provide a forecasted load over the projection period, and the outcome of that analysis was incorporated into the financial model's load reflected below
  - PA reviewed AEP's load forecasting methodology for Kentucky Power and determined that AEP utilizes a robust process that includes a combination of end-use models at the residential and commercial level along with econometric models in addition to a combination of trending in the near-term and statistical end-use models for the long-term
  - Upon a review of the forecast, PA decided to update components of the Company's forecast using Moody's macro-economic forecast as of February 2021 and also update the electric forecast for the mining sector to be consistent with PA's wholesale electric price forecast of PJM and the eastern interconnect
  - As AEP did not separately forecast EV sales, PA developed an EV load forecast based on historic and current registered car data

[redacted]

Load(1)

[redacted]

[redacted]

O&M

Overview

- ~60% of KPCo's total O&M expense is tracked in rates, based off the most recent test year
  - —The majority is related to generation and distribution
  - —Distribution O&M, including forestry expense is treated as a base rate item
- Formation of the Project Management Organization ("PMO") to optimize efficiencies across the organization
- Focus on continuous improvement efforts
  - —Savings from LEAN and Achieving Excellence initiatives for all functional groups are already incorporated into the O&M forecast
  - —Implementing and utilizing Smartsheet systems across the entire Distribution organization, which will lead to a truly paperless, interactive system with real-time updates
- Targeted reductions ranked by risk level in certain generation and distribution categories to bend the O&M curve

O&M Breakdown by Business Unit

Consolidated O&M Breakdown by Cost Type

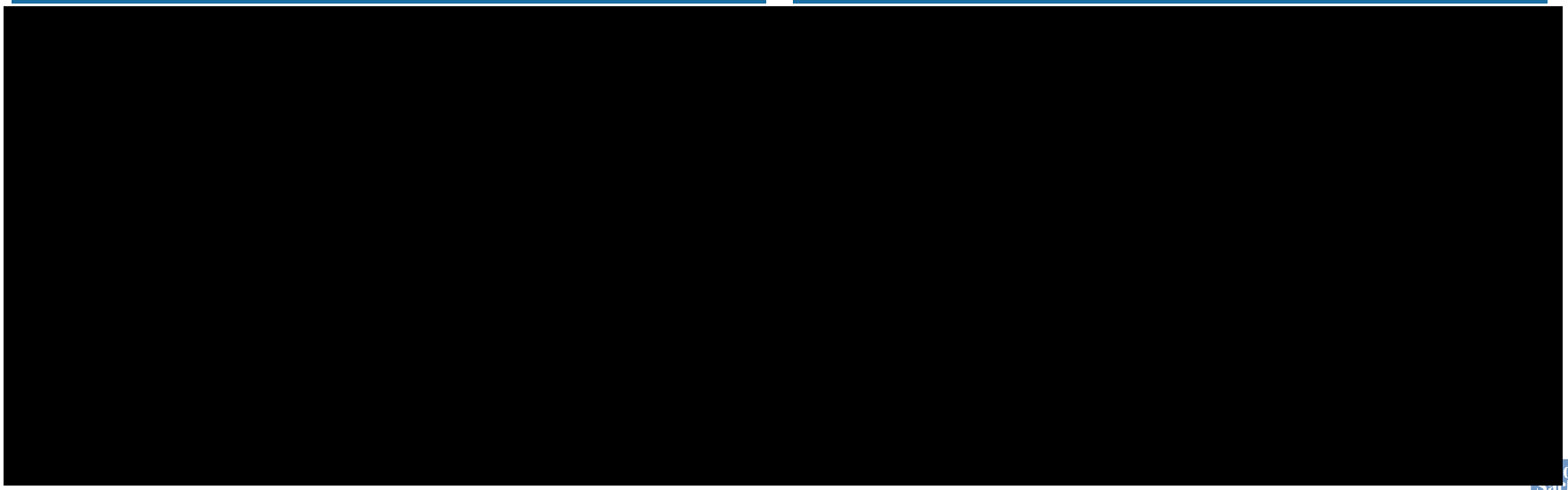
KPCo Balance Sheet & Credit Metrics

Credit Overview

- KPCo maintains a constructive dialogue with the rating agencies
- Moody's senior unsecured rating is Baa3, with a stable outlook
  - The most recent Moody's review was conducted in April 2020, with no change to the rating or outlook
- S&P recently revised its KPCo senior unsecured rating from A- to BBB+ due to an expected sale of the Company
  - S&P maintains a stand-alone credit profile of BBB for KPCo

Debt Overview[1]

Credit Metrics



Maturity Schedule[1]

KPCo Historical Financials

Income Statement[1]

($ in thousands)	2018A	2019A	2020A
Total Revenues	$652,931	$626,754	$553,807
Total Cost of Sales	265,531	238,154	191,807
Gross Margin	$387,400	$388,600	$362,000
Operating Expenses	164,700	175,500	162,900
Taxes Other Than Income Taxes	23,900	28,400	28,000
EBITDA	$198,800	$184,700	$171,100
Depreciation & Amortization	97,800	97,900	101,300
Operating Income	$101,000	$86,800	$69,800
Non-Operating Income / (Expenses)	6,100	5,000	5,400
Total Interest Expense	38,000	38,500	38,200
Total Income Taxes	6,000	(0)	(4,000)
NET INCOME	**$63,100**	**$53,300**	**$41,000**

Cash Flow Statement[1]

($ in thousands)	2018A	2019A	2020A
Net Income	$63,146	$53,300	$41,017
Depreciation & Amortization	97,770	97,880	101,285
Deferred Income Tax	5,459	(725)	5,367
Changes in Working Capital	25,064	(11,882)	3,890
Other Operating Activities	(73,516)	(57,560)	(74,727)
Cash from Operations	**$117,923**	**$81,013**	**$76,831**
Construction Expenditures	(136,016)	(162,502)	(153,845)
Other Investing Activities	1,372	1,333	1,119
Cash used in Investing	**($134,644)**	**($161,169)**	**($152,726)**
Long-Term Debt Issued, Net	(502)	(1)	124,619
Change in Advances from Affiliates	18,230	85,304	(47,528)
Dividends, Net	-	(5,000)	-
Other Financing Activities	(748)	(467)	(512)
Cash from Financing	**$16,980**	**$79,837**	**$76,579**
Total Change in Cash	259	(319)	684
Beginning Cash Balance	909	1,168	849
Ending Cash Balance	1,168	849	1,533

Balance Sheet[1]

($ in thousands)	2018A	2019A	2020A
Current Assets	$99,050	$110,150	$101,960
Plant, Property & Equip.	2,743,083	2,880,278	3,008,138
Const. Work in Process	84,748	98,671	86,530
Depreciation	(961,421)	(1,005,504)	(1,052,317)
Net Plant & Equipment	$1,866,410	$1,973,446	$2,042,351
Regulatory Assets	266,550	314,229	361,558
Other Assets	50,104	65,076	84,665
Total Assets	**$2,282,115**	**$2,462,901**	**$2,590,534**
Advances from Affiliates	27,871	113,175	65,647
Long-Term Debt, Current	-	65,000	40,000
Other Current Liabilities	169,286	182,248	170,874
Current Liabilities	197,157	360,423	276,521
Long-Term Debt	867,172	802,554	952,669
Deferred Income Taxes	402,070	421,859	446,054
Other Liabilities	82,837	95,885	91,955
Total Liabilities	$1,549,236	$1,680,721	$1,767,200
Common Equity	732,879	782,180	823,334
Total Liabilities & Equity	**$2,282,115**	**$2,462,901**	**$2,590,534**

Key Ratios[1]

[redacted]

[redacted]

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Kentucky Transco Historical Financials

Income Statement[1]

($ in thousands)	2018A	2019A	2020A
Total Revenues	$11,001	$12,997	$14,303
Total Cost of Sales	-	-	-
Gross Margin	$11,001	$12,997	$14,303
Operating Expenses	1,730	1,976	2,163
Taxes Other Than Income Taxes	124	252	435
EBITDA	$9,147	$10,769	$11,705
Depreciation & Amortization	1,894	2,700	3,018
Operating Income	$7,253	$8,069	$8,686
Non-Operating Income / (Expenses)	1,360	622	1,079
Total Interest Expense	1,342	1,645	2,074
Total Income Taxes	1,603	1,639	1,502
NET INCOME	**$5,668**	**$5,407**	**$6,189**

Cash Flow Statement[1]

($ in thousands)	2018A	2019A	2020A
Net Income	$5,668	$5,407	$6,189
Depreciation & Amortization	1,894	2,700	3,018
Deferred Income Tax	1,323	2,720	612
Changes in Working Capital	1,894	812	2,519
Other Operating Activities	(1,315)	(811)	(1,039)
Cash from Operations	**$9,463**	**$10,828**	**$11,299**
Construction Expenditures	(28,122)	(19,547)	(19,078)
Other Investing Activities	10,724	-	0
Cash used in Investing	**($17,397)**	**($19,547)**	**($19,078)**
Long-Term Debt Issued, Net	(4)	-	20,769
Change in Advances from Affiliates	1,638	8,719	(8,991)
Dividends, Net	-	-	(5,000)
Other Financing Activities	6,300	-	1,000
Cash from Financing	**$7,934**	**$8,719**	**$7,778**
Total Change in Cash	0	0	(0)
Beginning Cash Balance	-	-	-
Ending Cash Balance	0	0	(0)

Balance Sheet[1]

($ in thousands)	2018A	2019A	2020A
Current Assets	$2,180	$1,310	$1,293
Plant, Property & Equip.	111,256	124,617	129,739
Const. Work in Process	10,056	17,135	31,350
Depreciation	(3,948)	(5,974)	(8,385)
Net Plant & Equipment	$117,364	$135,778	$152,704
Regulatory Assets	(6,235)	(6,003)	(5,774)
Other Assets	453	666	826
Total Assets	**$113,763**	**$131,751**	**$149,049**
Advances from Affiliates	1,638	10,358	1,366
Long-Term Debt, Current	-	-	-
Other Current Liabilities	3,516	4,029	5,907
Current Liabilities	5,154	14,387	7,273
Long-Term Debt	42,484	42,510	63,305
Deferred Income Taxes	10,382	13,334	14,175
Other Liabilities	588	959	1,545
Total Liabilities	$58,608	$71,190	$86,299
Common Equity	55,155	60,562	62,750
Total Liabilities & Equity	**$113,763**	**$131,751**	**$149,049**

Key Ratios[1]

[redacted]

[redacted]

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Pension Plan Overview

Overview

- KPCo participates in an AEP sponsored qualified pension plan and an unfunded non-qualified pension plan. Substantially all of KPCo's employees are covered by the qualified plan or both the qualified and non-qualified pension plans
- KPCo also participates in OPEB plans sponsored by AEP to provide health and life insurance benefits for retired employees. KPCo accounts for its participation in the AEP sponsored pension and OPEB plans using multiple-employer accounting
- AEP has several trust funds with significant investments intended to provide for future payments of pension and OPEB benefits. All of the trust funds' investments are diversified and managed in compliance with all laws and regulations
  - The trust funds are broadly diversified among classes of assets, investment strategies and investment managers

Funded Status(1)

[redacted]

Benefit Plans

- All benefit plan assets are invested in accordance with each plan's investment policy. The investment policy outlines the investment objectives, strategies and target asset allocations by plan
- The objective of the investment policy for the pension fund is to maintain the funded status of the plan while providing for growth in the plan assets to offset the growth in the plan liabilities
- For equity investments, the concentration limits are generally as follows:
  - No security in excess of 5% of all equities
  - Cash equivalents must be less than 10% of an investment manager's equity portfolio
  - No individual stock may be more than 10% and 7% for pension and OPEB investments, respectively, of each manager's equity portfolio
  - No securities may be bought or sold on margin or other use of leverage
- For fixed income investments, each investment manager's portfolio is compared to investment grade, diversified long and intermediate benchmark indices

Current Target Asset Allocations

[redacted]

[redacted]

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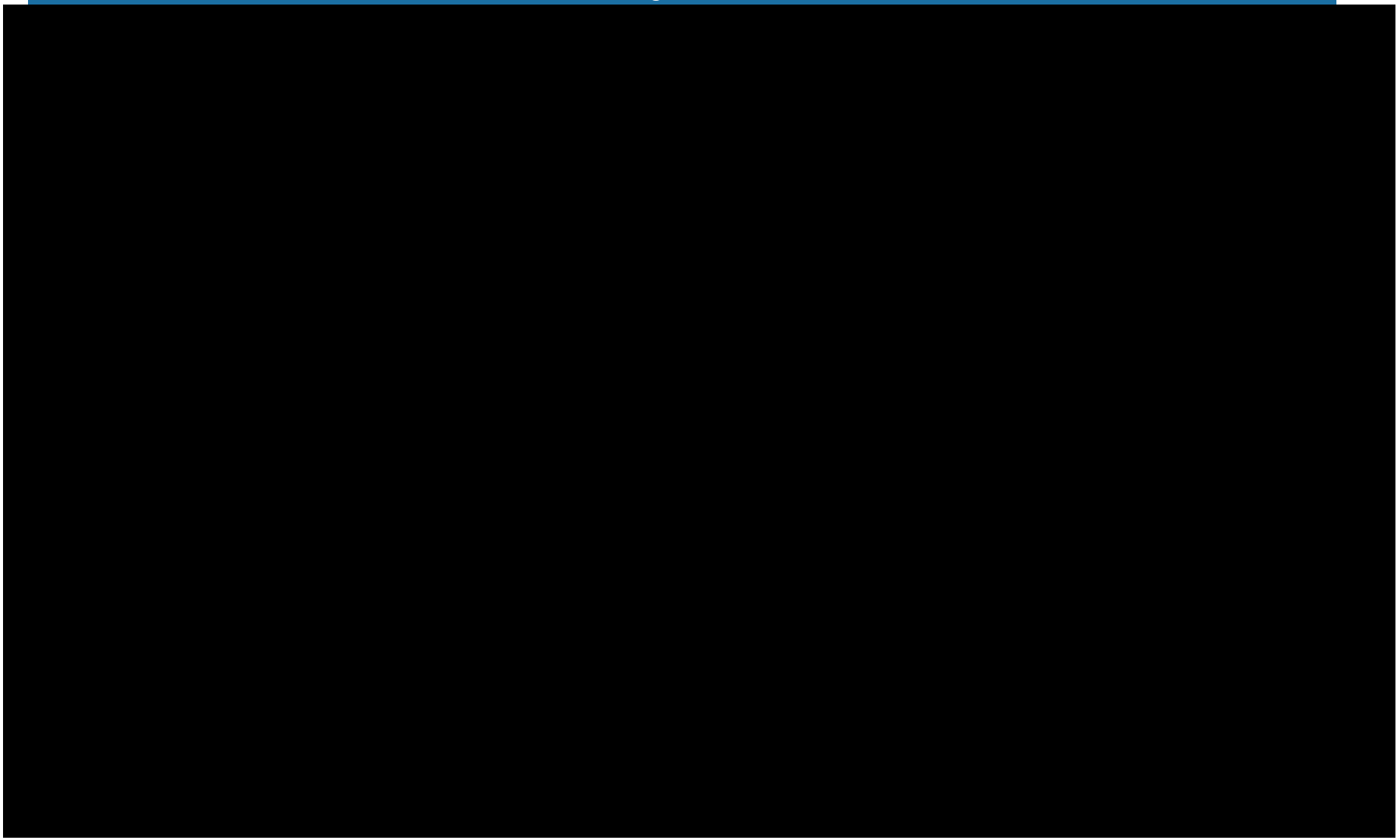
SHARED SERVICES

Shared Services & AEP Parent Support

Functional Organizational Chart[1]



GLOSSARY

Glossary

When the following terms and abbreviations appear in the text of this confidential information memorandum, they have the meanings indicated below

Term	Meaning
ACI	Activated Carbon Injection
ADFIT	Accumulated Deferred Federal Income Taxes
ADIT	Accumulated Deferred Income Taxes
AEGCo	AEP Generating Company
AEP	American Electric Power Company, Inc.
AMI	Advanced Metering Infrastructure
AMR	Automatic Meter Reading
APCo	Appalachian Power Company
ATRR	Annual Transmission Revenue Requirement
The Company	The proposed combined entity of KPCo and Kentucky Transco
CAIDI	Customer Average Interruption Duration Index
CCR	Coal Combustion Residuals
CPCN	Certificates of Public Convenience and Necessity

Glossary (Cont'd)

When the following terms and abbreviations appear in the text of this confidential information memorandum, they have the meanings indicated below

Term	Meaning
CWIP	Construction Work in Progress
D&A	Depreciation and Amortization
DACR	Distribution Automation Circuit Reconfiguration
DART	Days Away / Restricted or Transfer Rate
DFIT	Deferred Federal Income Tax
DSI	Dry Sorbent Injection
DSM	Demand Side Management
ELG	Effluent Limitation Guidelines
ES	Environmental Surcharge
ESP	Electrostatic Precipitator
FAC	Fuel Adjustment Clause
FERC	Federal Energy Regulatory Commission
FGD	Flue-Gas Desulfurization

Glossary (Cont'd)

When the following terms and abbreviations appear in the text of this confidential information memorandum, they have the meanings indicated below

Term	Meaning
GADS	Generation Availability Data System
GMR	Grid Modernization Rider
I&M	Indiana Michigan Power Company
K-PEGG	Kentucky Power Economic Growth Grants program
KEDS	Kentucky Economic Development Surcharge
Kentucky Power	Kentucky Power Company
Kentucky Transco	AEP Kentucky Transmission Company, Inc.
KPCo	Kentucky Power Company
KPSC	Kentucky Public Service Commission
KTCo	AEP Kentucky Transmission Company, Inc.
KU	Kentucky Utilities Co.
LG&E	Louisville Gas and Electric Co.
LSE	Load Serving Entity

Glossary (Cont'd)

When the following terms and abbreviations appear in the text of this confidential information memorandum, they have the meanings indicated below

Term	Meaning
NARUC	National Association of Utility Regulatory Commissioners
NERC	The North American Electric Reliability Corporation
O&M	Operations and Maintenance
OATT	Open Access Transmission Tariff
PA	PA Consulting
PJM	Regional transmission organization which coordinates the movement of electricity in all or parts of 13 states and the District of Columbia
PMO	Project Management Organization – internal KPCo process for optimizing efficiencies within the organization
PPA	Purchased Power Adjustment
ROE	Return on Equity
ROW	Right-of-way
RTO	Regional Transmission Organization
S&P	Standard and Poor's
SAIDI	System Average Interruption Duration Index

Glossary (Cont'd)

When the following terms and abbreviations appear in the text of this confidential information memorandum, they have the meanings indicated below

Term	Meaning
SAIFI	System Average Interruption Frequency Index
SCM	Standard Consumption Messaging
SCR	Selective Catalytic Reduction
SIF	Safety Instrumented Function
SSC	System Sales Clause
T&D	Transmission and Distribution
TA	Transmission Agreement
TCJA	Tax Cuts and Jobs Act
UPA	Unit Power Agreement
WPCo	Wheeling Power

VERIFICATION

The undersigned, Brian K. West, being duly sworn, deposes and says he is the Vice President, Regulatory & Finance for Kentucky Power Company, that he has personal knowledge of the matters set forth in the foregoing responses and the information contained therein is true and correct to the best of his information, knowledge, and belief.

Brian K. West

Commonwealth of Kentucky)
) Case No. 2021-00370
County of Boyd)

Subscribed and sworn before me, a Notary Public, by Brian K. West this 11th day of August, 2022.

Scott E. Bishop
Notary Public

SCOTT E. BISHOP
Notary Public
Commonwealth of Kentucky
Commission Number KYNP32110
My Commission Expires Jun 24, 2025

My Commission Expires June 24, 2025

Notary ID Number: KYNP 32110