

**COMMONWEALTH OF KENTUCKY**  
**BEFORE THE PUBLIC SERVICE COMMISSION**

In the Matter of:

ELECTRONIC JOINT APPLICATION OF	)	
AMERICAN ELECTRIC POWER COMPANY,	)	
INC., KENTUCKY POWER COMPANY AND	)	
LIBERTY UTILITIES CO. FOR APPROVAL OF	)	Case No. 2021-00481
THE TRANSFER OF OWNERSHIP AND	)	
CONTROL OF KENTUCKY POWER COMPANY	)	

**Joint Applicants' Notice of Filing of Bridge Power  
Coordination Agreement and Associated Cover Letter**

Pursuant to the Public Service Commission of Kentucky's ("Commission") March 30, 2022 Order, Kentucky Power Company, Liberty Utilities Company ("Liberty"), and American Electric Power Company, Inc. ("Joint Applicants") hereby file the Bridge Power Coordination Agreement ("Bridge PCA") and an associated cover letter addressed to Ms. Linda Bridwell, Executive Director of the Commission, from Mark Leskowitz, VP Regulated Fuel Procurement for American Electric Power Service Corporation, and Brad Parker, Senior Manager, Energy Support & Integration Services for Liberty, regarding the terms and conditions of the Bridge PCA.

Respectfully submitted,

*/s/ M. Todd Osterloh by KMG w/ permission*  
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*Counsel for American Electric Power Company,  
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April 12, 2022

**ELECTRONICALLY FILED**

Linda C. Bridwell  
Executive Director  
Public Service Commission  
211 Sower Boulevard  
P.O. Box 615  
Frankfort, KY 40602-0615

**RE: Case No. 2021-00481**  
**Power Coordination Bridge Agreement**

Dear Ms. Bridwell:

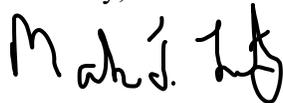
In connection with the proposed sale of the outstanding shares of Kentucky Power Company (“Kentucky Power”) to Liberty Utilities Co. (“Liberty”), Kentucky Power will withdraw from the Power Coordination Agreement as of the closing of the sale. Certain joint obligations entered into by the parties under the Power Coordination Agreement will not expire until after the closing of the sale of Kentucky Power. The attached Power Coordination Bridge Agreement provides a mechanism to transition those obligations in conjunction with the proposed sale without disruption to ensure the costs and benefits currently shared under the Power Coordination Agreement are allocated among Kentucky Power and the remaining AEP Operating Companies consistently with the terms of the Power Coordination Agreement until all remaining obligations are fully settled.

The attached proposed Power Coordination Bridge Agreement, which is intended to become effective as of the closing of the proposed sale of Kentucky Power to Liberty, addresses these types of allocations amongst the parties to the Power Coordination Agreement. The agreement also addresses the transition period during which Kentucky Power Company will be a participant in the AEP Joint FRR Capacity Plans. As the PJM Capacity markets are forward looking in nature, PJM has confirmed that Kentucky Power Company can remain in the AEP Joint FRR Plan through the PJM Planning Year of 23/24. To that end, the attached agreement addresses Kentucky Power’s participation in the Joint FRR Capacity Plan through Planning Year 23/24. The agreement also includes a form of Capacity Purchase Agreement (Exhibit 1) under which Kentucky Power may purchase capacity available from the AEP Operating Companies at the Base Residual Auction price to the extent necessary to satisfy its ratable share of joint FRR obligations through Planning Year 23/24.

American Electric Power Service Corporation (“AEPSC”) is the agent administering the Power Coordination Agreement and the proposed Power Coordination Bridge Agreement, along with the Joint FRR Plan for all of the participants in the Joint FRR Capacity Plan. After the closing of the proposed sale of Kentucky Power to Liberty, Kentucky Power will continue to retain its right, title and interest in and to the generation-related transactions performed on its behalf prior the closing, and to all associated allocations of benefits and liabilities associated with the Power Coordination Agreement, which include (i) Joint FRR obligations and RPM Sales, (ii) FRR charges and credits, as well as RPM charges and credits if RPM sales are made, (iii) settlements from the Legacy Commercial Operations Portfolio, and (iv) all other costs and liabilities associated with the Power Coordination Agreement including PJM assigned costs.

As its name suggests, the Power Coordination Bridge Agreement addresses the interim period between the closing of the proposed Kentucky Power sale transaction and the point at which allocations of charges under the Power Coordination Agreement are no longer occurring. The methods by which AEPSC, as agent, will be performing its responsibilities under the Power Coordination Bridge Agreement will be consistent with its current responsibilities as an agent administering the Power Coordination Agreement. The Power Coordination Bridge Agreement sets forth the processes and details by which the various allocations and settlements will be completed. A further summary of the terms and conditions of the Power Coordination Bridge Agreement is attached to this letter.

Sincerely,



Mark Leskowitz  
VP Regulated Fuel Procurement  
American Electric Power Service Corporation



Brad Parker  
Senior Manager, Energy Support & Integration Services  
Liberty Utilities

**Power Coordination Bridge Agreement-Summary**

The Power Coordination Bridge Agreement, addresses governance, PJM participation, settlements, role of AEPSC as agent, and other areas in which Kentucky Power participates in generation-related markets with Appalachian Power Company, Indiana Michigan Power Company, Kingsport Power Company, and Wheeling Power Company (collectively, the “AEP Operating Companies”).

<b>Article I - Definitions</b>	Addresses general and PJM terminology to define activities, settlements, or ratios which are required to settle the obligations under the agreement between Kentucky Power, the AEP Operating Companies, and AEPSC as agent.
<b>Article II - Term of Agreement</b>	The effective date and end dates of the agreement, coinciding with the final settlement of Kentucky Power’s Power Coordination Agreement obligations.
<b>Article III - Agent</b>	Defines roles and responsibilities of AEPSC as agent for administration of the terms and conditions of the agreement in consultation with the Operating Committee.
<b>Article IV - Operating Committee</b>	Defines roles, responsibilities, and governance of the Operating Committee of the agreement, consisting of one representative of Kentucky Power, one representative of the AEP Operating Companies, and one representative of AEPSC as agent of the agreement. The AEPSC member will be non-voting and decisions require a unanimous vote of the Kentucky Power and AEP Operating Company representatives.
<b>Article V - PJM Account Setup and Transition</b>	Defines PJM account set up process and transition as Kentucky Power establishes generation-related PJM accounts separate from AEP’s PJM accounts after the transaction closing date.
<b>Article VI - FRR Obligations</b>	Defines responsibilities, participation, and settlement of Kentucky Power with AEP Operating Companies in PJM’s capacity markets for the June 2022 to May 2023 and June 2023 to May 2024 delivery periods under the PJM Fixed Resource Requirement. Includes the process for addressing capacity performance hours, if any, that occur within PJM. Underperforming parties in the AEP FRR Plan during a performance hour will remain able to offset that underperformance with overperformance by other members to avoid or reduce penalty liability as they have done in the past.

<p><b>Article VII - Legacy Contracts</b></p>	<p>Defines the process for allocating existing joint sales and purchases with third parties entered into prior to the closing, including generation and fuel hedges, among Kentucky Power and the AEP Operating Companies. In general, Kentucky Power’s share of legacy power-related transactions and hedges are expected to fully settle prior to the closing of the proposed sale of Kentucky Power to Liberty and no new activity is anticipated affecting periods after the sale. Hedges of gasoline and diesel fuel for fleet vehicles are expected to fully settle by the end of 2022 and, as of March 31, 2022, are a credit to Kentucky Power of under \$200,000. Also defines how AEPSC as agent for Kentucky Power will nominate and/or convert ARRs and FTRs for transmission paths relevant to Kentucky Power.</p>
<p><b>Article VII - Billing Procedures</b></p>	<p>Defines responsibilities of AEPSC as agent to bill Kentucky Power and the AEP Operating Companies for any charges or credits incurred from settlements under the agreement.</p>
<p><b>Article IX - Force Majeure</b></p>	<p>Defines situations where non-performance is excused because it is beyond the control of a party to the agreement and also recognized by PJM as Force Majeure.</p>
<p><b>Article X - General</b></p>	<p>Addresses terms and conditions of general applicability, including third party beneficiaries, waivers, successors and assigns, indemnification, notices, and interpretation.</p>
<p><b>Article XI - Regulatory Approval</b></p>	<p>Defines the FERC regulatory approval required for the agreement to be effective and the FERC standard of review for contractual matters.</p>
<p><b>Exhibit 1 – Terms and Conditions of Capacity Purchase Agreement</b></p>	<p>Form of Capacity Purchase Agreement providing the terms and conditions under which Kentucky Power may purchase Capacity Resources at the Base Residual Auction price for Delivery Years 22/23 and 23/24 made available by the AEP Operating Companies in order to satisfy Kentucky Power’s ratable share of joint FRR obligations under the Bridge PCA.</p>

**RATE SCHEDULE No. XXXX**

**POWER COORDINATION BRIDGE AGREEMENT**

**among**

**AMERICAN ELECTRIC POWER SERVICE CORPORATION**

**as Agent for**

**APPALACHIAN POWER COMPANY,  
INDIANA MICHIGAN POWER COMPANY,  
KINGSPORT POWER COMPANY,  
OHIO POWER COMPANY, and  
WHEELING POWER COMPANY**

**and**

**KENTUCKY POWER COMPANY**

Tariff Submitter: **Appalachian Power Company**  
FERC Program Name: **FERC FPA Electric Tariff**  
Tariff Title: **APCo Rate Schedules and Service Agreements Tariffs**  
Tariff Proposed Effective Date: **01/01/9998**  
Tariff Record Title: **PCA Bridge Agreement**  
Option Code: **A**  
Record Content Description: **Rate Schedule No. XXX**

## **POWER COORDINATION BRIDGE AGREEMENT**

**THIS AGREEMENT** is made and entered into as of this \_\_\_ day of \_\_\_\_\_, 2022 (“Effective Date”) by and among American Electric Power Service Corporation, as agent (“AEPSC” or “Agent”) for Appalachian Power Company (“APCo”), Indiana Michigan Power Company (“I&M”), Kingsport Power Company (“KGPO”), Ohio Power Company (“OPCo”), Wheeling Power Company (“WPCo” and, collectively with APCo, I&M, KGPO and WPCo, the “AEP Operating Companies”), and Kentucky Power Company (“Kentucky Power” and, collectively with the AEP Operating Companies, the “Parties”).

### **RECITALS:**

**WHEREAS**, on October 26, 2021, American Electric Power Company, Inc. (“AEP”) entered into agreements under which all of the outstanding shares of Kentucky Power, a wholly owned subsidiary of AEP, will be sold and transferred to Liberty Utilities Co., subject to certain closing conditions including the receipt of certain regulatory approvals, as further described in the agreements (collectively, the “Kentucky Sale Transaction”);

**WHEREAS**, Kentucky Power and the AEP Operating Companies prior to the closing of the Kentucky Sale Transaction are affiliate operating companies that are each wholly-owned subsidiaries of AEP;

**WHEREAS**, Kentucky Power and the AEP Operating Companies are members of the regional transmission organization operated by PJM Interconnection, L.L.C. (“PJM”); provide power to serve retail and wholesale customers in Indiana, Kentucky, Michigan, Tennessee, Virginia and West Virginia; provide transmission service pursuant to the PJM Open Access Transmission Tariff (“PJM OATT”) and the Consolidated Transmission Owners Agreement

(“CTOA”); and are members of the AEP transmission zone in PJM (“AEP Zone”);

**WHEREAS**, APCo, I&M, WPCo, and AEPSC, as agent (collectively the “Remaining PCA Companies”) and Kentucky Power (and, collectively with the Remaining PCA Companies, the “PCA Companies”) are parties to that certain Power Coordination Agreement dated January 1, 2014 (“PCA”), on file with the Commission, pursuant to which they achieve efficiencies and economic benefits through (a) participation in the organized power and capacity markets of a regional transmission organization and (b) allocation of sales and purchases with other parties on bases that assign or allocate the costs and benefits of these transactions;

**WHEREAS**, Kentucky Power has provided advance written notice to the Remaining PCA Companies pursuant to section 13.1 of the PCA of its intention to withdraw from the PCA effective as of the closing of the Kentucky Sale Transaction;

**WHEREAS**, the PCA Companies have made joint wholesale purchases and sales of physical power (at market based rates), and of financial power, for the purpose of hedging the output of the Operating Companies’ generation assets, some of which will not or may not expire until after the PCA terminates (“Legacy Hedge Contracts”) whose costs and benefits are allocated among the PCA companies in accordance with the terms and conditions of the PCA;

**WHEREAS**, the PCA Companies have made other joint wholesale purchases and sales of physical power (at market based rates), and of financial power pursuant to the PCA, under joint purchase and sale contracts, some of which will not or may not expire until after the PCA terminates (“Legacy Trading Contracts”) whose costs and benefits are allocated among the PCA companies in accordance with the terms and conditions of the PCA;

**WHEREAS**, the PCA Companies have made joint purchases and sales of physical and financial non-power commodities, including natural gas, fuel oil, and consumables, some of which

will also not expire until after the PCA terminates (“Legacy Commodity Contracts”) whose costs and benefits are allocated among the PCA companies in accordance with Section 7.4;

**WHEREAS**, the PCA Companies (including Kentucky Power) desire to jointly share in an equitable manner the gains and losses resulting from the settlement and liquidation in the market of the Legacy Hedge Contracts, Legacy Trading Contracts, and Legacy Commodity Contracts (collectively, the “Legacy Commercial Operations Portfolio”) in order to wind-down their joint trading and hedging commitments entered into prior to the closing of the Kentucky Sale Transaction;

**WHEREAS**, the AEP Operating Companies and Kentucky Power have previously elected to fulfill their capacity obligations to PJM pursuant to the Fixed Resource Requirement (“FRR”) alternative under the PJM Reliability Assurance Agreement through and including Delivery Year 2023/2024 and desire to continue to fulfill those obligations pursuant to the FRR alternative;

**WHEREAS**, for the benefit of the Parties, this Agreement commits the Capacity Resources of Kentucky Power to fulfilling the PCA Companies’ joint FRR obligation and Reliability Pricing Model (“RPM”) Sales through any Delivery Year 2023/2024;

**WHEREAS**, for the benefit of the Parties, the Parties desire to describe the terms and conditions under which Kentucky Power will remain a transmission owner and load serving entity for its service territory in PJM and will remain a member of the AEP Zone through December 31<sup>st</sup> of the year that Kentucky Power ceases participation in a Joint FRR Plan with the AEP Operating Companies; and

**WHEREAS**, pursuant to the Kentucky Sale Transaction, Kentucky Power will continue to retain its right, title and interest in and to its generation and power marketing business of Kentucky Power at and after the closing and to all associated liabilities, including all of its

allocations of (1) gains and losses from the Legacy Commercial Operations Portfolio, (2) PCA Companies' joint FRR obligations and RPM Sales, (3) FRR Charges and Credits as well as RPM Charges and Credits if RPM Sales are made, and (4) all costs and liabilities associated with the foregoing, including any costs or liabilities assigned to PJM Members by PJM that may be the result of a default of an unaffiliated PJM Member.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements herein set forth, the Parties mutually agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**1.1 AEP Zone** means the AEP East Zone as illustrated in Attachment J of the PJM Tariff.

**1.2 Capacity Administration Ratio** means as capacity is administered in a shared subaccount, this ratio is used to assign each Party their share of the Capacity Administration fees. The ratio reflects each Party's contribution to the Capacity Administration Fees charged by PJM. Each Party's contribution is considered to be that Party's Final FRR Load Obligation plus the Party's UCAP Resource Commitment, adjusted for FRR and RPM resource sharing. A Party's ratio will be the Party's contribution divided by the aggregate contribution across all Parties.

**1.3 Capacity Resources** means, in respect of any Delivery Year, the megawatts of net capacity from the PCA Companies eligible to satisfy the PCA Companies' joint FRR Obligation and RPM Sales.

**1.4 Capacity Requirement** means, in respect of any Delivery Year, the megawatts of net capacity from the PCA Operating Companies required to satisfy the Joint FRR Obligation and RPM Sales.

**1.5 Closing** means the closing of the transactions contemplated by the Stock Purchase Agreement. The Closing shall be deemed to occur at 12:01 a.m., Eastern Time, on the Closing Date.

**1.6 Closing Date** means the date on which the Closing occurs.

**1.7 Commission** means the Federal Energy Regulatory Commission.

**1.8 Dedicated Wholesale Customer** means a wholesale customer whose load is served by a Party that has undertaken, by contract, an obligation to serve that customer's partial or full requirements load and to acquire power supply resources and other resources necessary to meet those requirements.

**1.9 Equity Ratio** means all Trading Transactions settled for a given month will be allocated among the Parties ratably in proportion to each Party's total common shareholder equity balance. The total common shareholder equity balance for each Party as of the end of the previous calendar year will be as stated in a FERC Form 1, currently page 112 (Total Proprietary Capital). These balances will then be applied to allocate settled Trading Transactions among the Parties during the subsequent twelve-month period beginning June 1 and ending May 31. Kentucky Power will provide FERC Form 1 data and any other data necessary to Agent to enable Agent to complete Kentucky Power's total common shareholder equity balance for purposes of determining ratable proportions.

**1.10 FRR Charges and Credits** means all PJM charges and credits arising from or relating to the Joint FRR Obligation, including but not limited to capacity auction revenues and cost of compliance with the Joint FRR Obligation under the PJM Reliability Assurance Agreement.

**1.11 RPM Charges and Credits** means all PJM charges and credits arising from

RPM Sales, including but not limited to capacity auction revenues and cost of compliance for RPM commitments under the PJM Reliability Assurance Agreement.

**1.12 FRR Commitment Deadline** means the date by which the AEP Operating Companies and Kentucky Power must elect with PJM whether they will participate in the FRR Option in advance of the Base Residual Auction (“BRA”) for the applicable Delivery Year.

**1.13 FRR Ratio** means - If capacity resource performance charges are assessed by PJM for a given delivery year, the total net charge will be allocated among the Parties ratably in proportion to each Party’s contribution to the total charge, taking into account the effect of collective participation of the Parties in the Fixed Resource Requirement alternative. Each Party’s contribution to the total net charge will be determined by the Agent by computing a total MW position for each Party by subtracting its total capacity obligation in MWs from its total capacity resources in MWs. This result will be further adjusted by adding or subtracting as applicable the net total MWs of actual under-performance or over-performance of each Party’s capacity resources during the delivery year as computed by PJM. Any Party with a resulting net short MW position, meaning that its capacity obligation MWs are greater than its capacity resource MWs including any MWs of over-performance or under-performance, will be allocated a share of the total net performance charge from PJM based on the Party’s net short MW position.

**1.14 FRR Transition Period** means the period from the Closing through and including the last day of the final PJM Delivery Year for which Kentucky Power is party to a Joint FRR Plan with one or more of the AEP Operating Companies.

**1.15 Generation Hedge Transactions** means Off-System Transactions entered into for the purpose of hedging the output of the generation assets of one or more of the PCA Companies.

**1.16 Hedge Ratio** means The total monthly net costs and revenues from the settlement of Generation Hedge Transactions will be allocated among the Parties ratably in proportion to the total of each Party's surplus MWhs for the month, as determined by the Agent. Surplus MWhs will be computed as the total of all MWs in hours in which a Party's MW output from its generation assets and energy purchases exceeded that Party's Internal Load. If the above allocation would result in any Party being allocated revenues or costs associated with more than one hundred and fifteen percent (115%) of its monthly surplus MWhs as computed above, such excess(es) above that amount will be allocated to all of the Parties ratably in proportion to the sum of each Party's hourly MW output of its generation assets for the month.

**1.17 Internal Load** means all sales of power, plus associated line losses, by a Party to its Retail Customers and Dedicated Wholesale Customers, and is principally characterized by the applicable Party assuming the load obligation as its own power commitment.

**1.18 Joint FRR Obligation** means the capacity obligations of the PCA Companies to PJM pursuant to the FRR alternative under the PJM Reliability Assurance Agreement through for each Delivery Year for which there is a Joint FRR Plan during the FRR Transition Period.

**1.19 Off-System Transactions** means sales and purchases and any other types of power-related wholesale transactions, whether physical or financial, on behalf of a Party or Parties, excluding sales to Internal Load customers.

**1.20 Operating Committee** means the administrative body established pursuant to Article IV for the purposes therein specified.

**1.21 PJM** means PJM Interconnection, L.L.C., a regional transmission organization approved by the Commission.

**1.22 Delivery Year** means each period of June 1 through May 31 of the following year during the term of this Agreement, in whole or in part, which period constitutes a Delivery

Year as defined by PJM.

**1.23 Retail Customer** means a retail power customer on whose behalf an Operating Company has undertaken an obligation to obtain power supply resources in order to supply electricity to reliably meet the electric needs of that customer.

**1.24 RPM Capacity Ratio** means when two or more Parties collectively participate in the Fixed Resource Requirement alternative, any Off-System Transactions of capacity related to a PJM Capacity Auction will be allocated to each participating Party ratably in proportion to the total capacity resources of each Party minus the total capacity obligation of each Party.

**1.25 RPM Sales** means sales of Capacity made in RPM.

**1.26 Third Party or Third Parties** means any entity or entities that are not a Party or Parties.

**1.27 Trading Transactions** means Off-System Transactions that are not Generation Hedge Transactions or otherwise sourced or hedged from, dedicated to, or associated with the generation assets or Internal Load of the Parties.

**1.28 Stock Purchase Agreement** means that certain Stock Purchase Agreement by and among AEP, AEP Transmission Company, Inc., and Liberty Utilities Co. dated October 26, 2021.

## ARTICLE II

### TERM OF AGREEMENT

**2.1 Term.** Subject to Commission approval or acceptance for filing, this Agreement shall take effect on the Closing Date and shall continue in full force and effect until the later of (1) the final settlement of the Legacy Commercial Operations Portfolio or (2) December 31<sup>st</sup> of the year in which the FRR Transition Period ends under this Agreement, but in any case not less than

two years after the Closing Date. The Agent will provide notice to the AEP Operating Companies and Kentucky Power of the end of the term of this Agreement.

### **ARTICLE III**

#### **AGENT**

**3.1**        **Delegation and Acceptance of Authority.** The AEP Operating Companies and Kentucky Power hereby delegate to the Agent and the Agent hereby accepts responsibility and authority for the duties specified in this Agreement. Except as herein expressly established otherwise, the Agent shall perform each of those duties in consultation with the Operating Committee.

**3.2**        **Reporting.** The Agent shall provide periodic summary reports of its activities under this Agreement to the Parties and shall keep the Parties and the Operating Committee informed of situations or problems that may materially affect the outcome of these activities. Furthermore, the Agent agrees to report to the Parties and to the Operating Committee in such additional detail as is requested regarding specific issues or projects under its supervision as Agent. The Agent will carry out its responsibilities under this paragraph in accordance with the regulations of the Commission.

### **ARTICLE IV**

#### **OPERATING COMMITTEE**

**4.1**        **Operating Committee.** By written notice to the other Parties, the Agent, the AEP Operating Companies (collectively) and Kentucky Power shall each name one representative (“Representative”) to act for it in matters pertaining to this Agreement and its implementation, such that the Operating Committee membership will be comprised of three members. The Agent, the AEP Operating Companies, and Kentucky Power may each change its Representative at any

time by written notice to the other Parties. The Representatives of the respective Parties shall comprise the Operating Committee. The Agent's Representative shall act as the chairman of the Operating Committee ("Chairman"). All decisions of the Operating Committee shall be by a unanimous vote of the Representatives of Kentucky Power and the AEP Operating Companies. The Agent's Representative shall be non-voting.

**4.2 Subcommittees.** The Chairman, or any other Representative, subject to the approval of the Operating Committee, may create a subcommittee or working group of the Operating Committee ("Subcommittee"). Membership in a Subcommittee will be determined by the Operating Committee. Subcommittees shall perform the duties assigned to them and shall report to the Operating Committee on all matters referred to them. Actions of a Subcommittee shall be reported in the form of proposals or recommendations to the Operating Committee and shall have no force or binding effect except by action of the Operating Committee.

**4.3 Meeting Dates.** The Operating Committee and each Subcommittee thereof shall hold meetings at such times, means, and places as the members shall determine, but no less than semi-annually. Minutes of each Operating Committee and Subcommittee meeting shall be prepared and maintained.

**4.4 Information for Use of the Agent: Confidentiality.** The Parties shall cooperate in providing to the Agent the information it reasonably requests and shall supplement or correct any such information on a timely basis. The Agent and the Parties will maintain and preserve the confidentiality of such information supplied to it by a Party, to the maximum extent permitted by law. Without limiting the foregoing, this confidentiality obligation will not prevent a Party from providing confidential information to any governmental authority formally or otherwise, as required in connection with any regulatory proceeding, and as required for obtaining

any regulatory approval or making any regulatory filing, provided that each Party agrees to cooperate with the other to maintain the confidentiality of that information by requesting confidential treatment with all filings to the extent appropriate and permitted by applicable law. This provision will not prevent either Party from providing any confidential information received from the other Party to any court or regulatory proceeding or in accordance with a proper discovery request or in response to the reasonable request or need of any governmental authority charged with regulating the disclosing Party's affairs or in accordance with the request of any applicable stock exchange, provided that, if feasible, the disclosing Party will give prior notice to the other Party of such disclosure and, if so requested by such other Party, will have used all reasonable efforts to oppose or resist the requested disclosure, as appropriate under the circumstances, or to otherwise make such disclosure pursuant to a protective order or other similar arrangement for confidentiality. Any other proposed disclosure to a third party (not a governmental authority) will require the consent and approval of the non-disclosing party.

## **ARTICLE V**

### **PJM ACCOUNT SETUP AND ACCOUNT TRANSITION**

**5.1 PJM Account Establishment.** Kentucky Power, in coordination with the Agent and PJM, will establish accounts and sub-accounts in its own name, as necessary and appropriate, for settlement of PJM charges and credits for energy, capacity, ancillaries, transmission service, and all other PJM charges and credits, effective at and after the Closing, and will cause Agent to have read access to such accounts and sub-accounts, including five (5) minute PJM data, to assist in administering this Agreement. Agent will retain a copy of Kentucky Power accounts as of the Closing Date to facilitate administration of this Agreement. Kentucky Power will assume all operations, management, settlement, and credit requirements related to its participation in PJM

and arising from its PJM activity on and after the Closing Date, excepting only those services specifically reserved to the AEP Operating Companies or the Agent during the term of this Agreement, or as may otherwise be provided in any transition services agreement by and between the Agent and Kentucky Power for the period for the period specified by such agreements on and after the Closing Date. Agent will submit to PJM all power meter data related to Kentucky Power, including ties with other zones, and may set up any necessary accounts or sub-accounts to facilitate the administration of this Agreement.

**5.2 Legacy PJM Sub-Account Allocations.** Kentucky Power will be responsible for charges and credits in the AEP Operating Companies' PJM accounts and sub-accounts billed to the AEP Operating Companies by PJM or payable by the AEP Operating Companies to PJM on and after Closing Date which arose directly or indirectly from transactional activity allocable to Kentucky Power for PJM activity occurring prior to the Closing Date or that is misapplied to the AEP Operating Companies' PJM accounts for PJM activity occurring after the Closing Date. The Agent will coordinate the settlement of the PJM charges and credits, including adjustments made by PJM after the 60-day settlement cycle for PJM activity occurring prior to the Closing Date for a period of 2-years after the conclusion of the Joint FRR Plan (as defined below) with Kentucky Power as a participant. The allocation of PJM charges and credits under this Section 5.2 will use the appropriate PJM billing determinants (as defined by PJM) and reported in the relevant AEP Operating Company or Kentucky Power account or sub-account with PJM. The Agent will be responsible for providing all relevant documentation to support the billing or credit to Kentucky Power. The AEP Operating Companies, Agent and Kentucky Power will enter into such further documents and arrangements, including with PJM, such as a PJM Delegation of Authority, as may be necessary or advisable to carry out the settlement of PJM debits and credits

contemplated by this Section 5.2 or other aspects of this Agreement.

## ARTICLE VI

### FRR OBLIGATIONS

**6.1 FRR and PJM Transition Period.** Kentucky Power will participate in the PJM Fixed Resource Requirement (“FRR”) option jointly with the Remaining PCA Companies (the “Joint FRR Plan”) for all PJM Delivery Years from and including the Closing Date through the following May 31, 2024. To satisfy Kentucky Power’s resource adequacy requirements for Kentucky Power’s load, Kentucky Power will make available for preparation of and to the Joint FRR Plan all of its owned and purchased unforced capacity to support the Joint FRR Plan during the FRR Transition Period, including unforced capacity from the Big Sandy Plant, Demand Response resources, and its ownership share of unforced capacity from the Mitchell Plant. Kentucky Power will also participate in related sales of capacity from the Joint FRR plan into the PJM RPM Model Market as reasonably determined by the Agent in accordance with the terms and conditions of this Agreement. During any such Joint FRR Plan Delivery Year, if Kentucky Power has any net performance shortfalls within PJM, Agent will inform PJM of any such net performance shortfall by Kentucky Power, Kentucky Power will also resolve or cure any PJM Performance Assessment Interval in the following FRR Plan year by either financially settling with the Remaining PCA Companies for any replacement Capacity needed in such year due to Kentucky Power’s non-performance or physically settling with the Remaining PCA Companies for any replacement Capacity needed in such year due to Kentucky Power’s non-performance (such physical replacement to be provided no later than 30 days prior to the PJM identified deadline), provided further, if such physical settlement/replacement does not perform in the such Delivery Year, Kentucky Power will financially settle such non-performance in the following Delivery

Year. Kentucky Power's obligations to resolve or cure any PJM Performance Assessment Interval in the following FRR Plan year(s) survives the term of this Agreement.

**6.2 PJM Membership Obligation.** At a minimum, Kentucky Power will remain a transmission owner and load serving entity for its service territory in PJM and will remain in the AEP Zone in PJM through December 31<sup>st</sup> of the calendar year that Kentucky Power ceases participation in the Joint FRR Plan pursuant to the terms of this Agreement. Kentucky Power will also cause AEP Kentucky Transmission Company, Inc., or, the assets currently held by AEP Kentucky Transmission Company, Inc., to remain in PJM and the AEP Zone in PJM for the same period of time as Kentucky Power.

**6.3 Generation System Planning.** During the FRR Transition Period, Kentucky Power and the Remaining PCA Companies will each be responsible for their own capacity planning and, consistent with the requirements of PJM or the applicable regional transmission or reliability organization, will maintain an adequate level of power supply resources to meet their own Internal Load requirements for capacity and energy, including any required reserve margins, and shall bear all of the resulting costs. Agent shall provide all information in its possession necessary to assist Kentucky Power in capacity planning, as described in Section 6.4 below.

**6.4 Capacity Resource Planning.**

**6.4.1 FRR Election Capacity Adequacy.** Prior to each FRR Election Deadline that pertains to a Delivery Year during the FRR Transition period, Agent shall assess the adequacy of the power supply resources of Kentucky Power and the Remaining PCA Companies and make recommendations to each Party regarding (1) the need for additional power supply resources and (2) whether Kentucky Power and the Remaining PCA Companies have power supply resources in excess of their needs (short-term or long-term)

that could be made available to the other Parties or Third Parties either through separate contracts or through the power markets of the applicable regional transmission organization. Agent, based on that assessment and as agent for purposes of this Agreement for the Remaining PCA Companies and Kentucky Power Company, shall elect whether the companies shall participate in a Joint FRR Plan for the applicable Delivery Year of the FRR Transition Period and will have the right and obligation to bid Capacity Resources from the Joint FRR Plan into the BRA and Incremental Auctions for each applicable Delivery Year.

**6.4.2 Delivery Year Capacity Adequacy.** To assist in administering this Agreement, Agent will contact Kentucky Power from time to time in advance of the Base Residual Auctions to conduct any pre-Delivery Year tasks, and, if needed, in between the Base Residual Auctions and the Incremental Auctions, including obtaining from Kentucky Power information on any Demand Resource registrations. At least 15-days prior to the Third Incremental Auction for each Delivery Year during the FRR Transition Period, the Agent will analyze the impacts on Kentucky Power's and the AEP Operating Companies' Joint FRR Obligation and RPM Sales of projected and realized changes to Capacity Resources and Capacity Requirements and prepare a recommended Capacity Resource plan for Kentucky Power's and the Remaining PCA Companies' Joint FRR Obligation and RPM Sales. Among other items, the plan will describe whether additional Capacity Resources should be procured for the applicable Delivery Year with respect to any capacity-deficient party.

**6.5 Capacity Purchases.** Each of Kentucky Power and the Remaining PCA Companies shall purchase or otherwise obtain sufficient, FRR-eligible Capacity Resources to fully

satisfy their ratable share of the joint FRR obligations under the Joint FRR Plan. For any subsequent Delivery Year during the FRR Transition Period for which Kentucky Power lacks sufficient owned capacity to satisfy its FRR Capacity Obligation for that Delivery Year and, if the Remaining PCA Companies have marketable excess Capacity Resources available for the applicable Delivery Year, then Kentucky Power and the Remaining PCA Companies agree to enter into an agreement(s) based on the terms and conditions set forth in Exhibit 1 under which Kentucky Power will purchase the Capacity Resources at the Base Residual Auction price for the respective Delivery Year made available by the Remaining PCA Companies in order to satisfy its ratable share of the joint FRR obligation for the applicable Delivery Year. Initially, any such agreement will be made 30 days prior to the Joint FRR Plan submittal for the Base Residual Auction of the specific Delivery Year and any subsequent mutual agreement will be made 15 days before the third incremental auction of the Delivery Year, if additional capacity is needed. If insufficient additional Capacity Resources are available from the Remaining PCA Companies to satisfy the shortfall, then Kentucky Power shall purchase an amount of FRR-eligible capacity from Third Parties sufficient to satisfy its ratable share of the joint FRR obligation for the applicable Delivery Year beyond what is supplied by the Remaining PCA Companies.

**6.6 Capacity Resource Plan Implementation.** During each Delivery Year, the Agent will collect Capacity Resource information from the Remaining PCA Companies and Kentucky Power and may alter the combination of Capacity Resources in the Joint FRR Plan based on that information to maintain Kentucky Power's and the Remaining PCA Companies' compliance with the PJM Reliability Assurance Agreement and to minimize compliance charges to the extent reasonably practicable. The Agent will implement the Capacity Resource plan for the Joint FRR Obligation, and any plan adjustments, with PJM. During each Delivery Year, the Remaining PCA

Companies and Kentucky Power will each perform testing of their Capacity Resources in accordance with the PJM Reliability Assurance Agreement and in consultation with the Agent.

**6.7 Allocation of Capacity-Related Charges and Credits.**

**6.7.1 RPM Capacity Sales.** The Agent will allocate RPM Charges and Credits associated with sales of capacity into a PJM Capacity Auction for any Delivery Year during the FRR Transition Period between Kentucky Power and the AEP Operating Companies ratably in proportion to the RPM Capacity Ratio.

**6.7.2. Capacity Performance Charges.** If capacity resource performance charges are assessed by PJM for Delivery Years during the FRR Transition Period, the total net charge will be allocated between Kentucky Power and the Remaining PCA Companies ratably in proportion to each Operating Company's contribution to the total charge, taking into account the effect of collective participation of the Parties in the Joint FRR Plan. Each Party's contribution to the total net charge will be determined by the Agent by computing a total MW position for each Party by subtracting its total capacity obligation in MWs from its total capacity resources in MWs. This result will be further adjusted by adding or subtracting as applicable the net total MWs of actual under-performance or over-performance of each Party's capacity resources during the performance assessment intervals in the delivery year as computed by PJM. Any Party with a resulting net short MW position, meaning that its capacity obligation MWs are greater than its Capacity Resource MWs including any MWs of over-performance or under-performance, will be allocated a share of the total net performance charge from PJM based on the Party's net short MW position. Any performance charge not allocated as set forth above will be directly assigned to the Party that caused the performance charge.

For FRR performance charges, if the physical settlement option is elected by mutual agreement of the Parties, all performance charges associated with Kentucky Power would be settled either physically with Kentucky Power as set forth in Section 6.1 or financially with Kentucky Power compensating the Remaining PCA Companies for the additional capacity required for the following planning year(s). Such financial compensation will be based on the actual cost of the replacement capacity procured.

**6.7.3 Capacity Non-Performance Insurance.** If procured by the Agent for any Delivery Year during the FRR Transition Period and Kentucky Power has approved such purchase, the Agent will allocate to Kentucky Power and Kentucky Power will pay the costs of PJM Capacity Non-Performance insurance purchased by Agent on behalf of the PCA Companies ratably in proportion to the total capacity obligation including RPM Sales of each of Kentucky Power and the Remaining PCA Companies as of the first day of the Delivery Year. In the event there are any claims made under such insurance, the allocation of the deductible applied to a Party making a claim under the insurance or any benefits from such insurance will be determined by the Agent at the end of a given Delivery Year, so that all claims made under such insurance will be considered.

**6.7.4 Other FRR Charges and Credits.** All other FRR Charges and Credits not specified in Sections 6.7.1 to 6.7.3 arising from the Joint FRR Plan or the joint participation of the PCA Companies in sales of capacity into a PJM Capacity Auction for any Delivery Year during the FRR Transition Period will be allocated among Kentucky Power and the Remaining PCA Companies in a reasonable manner consistent with past practice and the manner in which such costs and charges would have been allocated by PJM among non-affiliated PJM market participants.

**6.8 Other Agreements.** To the extent there is any inconsistency, fulfillment of the Remaining PCA Companies' FRR Obligation, including the allocation of any associated FRR Charges and Credits, for the Delivery Years covered by this Article VI, shall be governed by this Agreement and not by the Power Coordination Agreement.

**6.9 Further Assurances.** The Remaining PCA Companies, Agent and Kentucky Power will enter into such further documents and arrangements, including with PJM, as may be necessary or advisable to carry out the settlement of PJM debits and credits contemplated by this Section 6.1.

## ARTICLE VII

### LEGACY CONTRACTS

**7.1 Interim Period Contracting.** During the period between October 26, 2021 and the Closing Date ("Interim Period"), the Agent, on behalf of the PCA Companies (including Kentucky Power), will have the authority to enter into, assign, materially amend, grant any material waiver or consent under, or voluntarily terminate Off-System Transactions, provided, however, Agent will otherwise follow applicable limitations on such activity set forth in the Stock Purchase Agreement, if any. During the Interim Period the Agent will be permitted to enter into new Generation Hedge Transactions that expire after the anticipated Closing Date based on current market conditions, provided, however, Agent will otherwise follow applicable limitations on such activity set forth in the Stock Purchase Agreement, if any. These new Generation Hedge Transactions will be maintained in a shared risk book for identification.

**7.2 Legacy Power Trading and Hedge Portfolio.** The Agent will settle and liquidate the Legacy Trading Contracts and Legacy Hedge Contracts in the market in accordance with the terms of the Legacy Trading Contracts and Legacy Hedge Contracts, and as further set

forth below. As of the Closing Date, Agent will prepare and provide a Schedule to Kentucky Power of the Legacy Hedge, Legacy Trading, and Legacy Commodity Contracts.

**7.2.1 Legacy Trading Contracts.** The Agent shall allocate gains and losses arising from the settlement and liquidation of the Legacy Trading Contracts in the market each month among the PCA Companies ratably in proportion to each PCA Company's Equity Share Ratio. Kentucky to provide FERC Form 1 data and any other data necessary to Agent to enable Agent to complete Kentucky Power's total common shareholder equity balance for purposes of determining ratable proportions.

**7.2.2 Legacy Hedge Contracts.** The Agent shall allocate gains and losses arising from the settlement and liquidation of the Legacy Hedge Contracts in the market among the PCA Companies ratably in proportion to the total of each PCA Company's surplus MWh for the month, as determined by the Agent using the Hedge Ratio.

**7.2.3 Post-Closing Management of Legacy Hedge Contracts.** On and after the Closing Date, the Agent may, from time to time, enter into new transactions on behalf of the PCA Companies that are dedicated to the portfolio of Legacy Hedge Contracts with the intent of reducing the tenor and/or risk of that portfolio, and those additional transactions, if any, will also be deemed Legacy Hedge Contracts, provided that the Agent will not enter into any such transaction whose term extends beyond the final delivery month of the portfolio of Legacy Hedge Contracts on the effective date of this Agreement. Legacy Hedge Contracts entered into after the Closing Date, if any, will be maintained in a separate risk book for identification.

**7.3 ARR and FTR Elections.** For each Delivery Year during the FRR Transition Period for which the PJM deadline to nominate auction Revenue Rights ("ARR") and/or Financial

Transmission Rights (“FTR”) occurs prior to or within 30-days after the Closing, the Agent will have the right to nominate auction ARR and/or FTRs as well as convert any allocated ARRs to FTRs, in any combination thereof, on behalf of Kentucky Power for transmission paths associated with Kentucky Power. At Closing or as soon as practical thereafter, the Agent shall seek to transfer the foregoing ARR and/or FTR positions nominated on behalf of Kentucky Power to its applicable PJM accounts and/or sub-accounts.

**7.4 Other Legacy Trading and Hedging Contracts.** The Agent shall allocate gains and losses arising from the settlement and liquidation of Legacy Commodity Contracts in the market ratably among the PCA Companies in the same manner and using the same allocation and settlement methodology/process as Agent would have applied if the settlement had occurred in the normal course of business prior to the Closing Date when Kentucky Power was a wholly owned subsidiary of AEP, recognizing that gas and coal commodity contracts will be a direct charge to Kentucky, and not settled through this Agreement, and that with respect to RECs associated with Legacy Trading Contracts, the impact of the RECs will be determined at the time the RECs purchase or sold in a transaction are delivered. The Agent will be responsible for providing documentation to support the gains or losses allocated to Kentucky Power and to support the allocation methodology used by Agent.

**7.5 Legacy Trading Contracts Administration.** The Agent will administer the scheduling, billing, settlement and liquidation in the market of the Legacy Commercial Operations Portfolio, and will provide such information, reports and position data to each Party as is requested regarding the Party’s allocation of the Legacy Commercial Operations Portfolio. Any gains and losses arising from the liquidation of the Legacy Commercial Operations Portfolio shall be governed and allocated by this Agreement and not by the Power Coordination Agreement among

the Remaining PCA Companies.

**ARTICLE VIII**  
**BILLING PROCEDURES**

**8.1**        **Records.** The Agent will maintain the records necessary to determine the allocation of all gains, losses, charges and credits under this Agreement. Such records shall be made available to the Operating Companies and to Kentucky Power upon request for a period not to exceed three (3) years.

**8.2**        **Monthly Statements.** As promptly as practicable after the end of each calendar month, the Agent shall prepare a statement setting forth the monthly summary of all gains, losses, charges and credits, including all FRR Charges and Credits and RPM Charges and Credits, allocated or assigned to the Parties in sufficient detail as may be needed for settlements under the provisions of this Agreement. As required, the Agent may provide such statements on an estimated basis and then adjust those statements for actual results.

**8.3**        **Billings and Payments.** The Agent shall handle all billing between the Parties and non-Parties regarding the Legacy Commercial Operations Portfolio and the Joint FRR Obligation and RPM Sales. Payments by the Remaining PCA Companies and Kentucky Power shall be made by remittance of the net amount billed to the applicable Party or by making appropriate accounting entries on the books of the Parties. The entire amount shall be paid when due.

**8.4**        **Taxes.** Should any federal, state, or local tax, surcharge or similar assessment, in addition to those that may now exist, be levied upon the services to be provided in connection with this Agreement, or upon the provider of service as measured by the services or the revenue therefrom, such additional amount shall be included in the billing described in this Article VIII.

**8.5**        **Billing Errors.** If the Agent or any other Party discovers a billing error pertaining to a prior billing for reasons including, but not limited to, billing omissions or missing or erroneous data or calculations (including those caused by meter, computer or human error), a corrective adjustment will be calculated by the Agent. Except as the Operating Committee may authorize in the exercise of reasonable discretion, the correction adjustment shall not be applied to any period earlier than two years preceding the discovery of the error, nor will interest accrue on such adjustment. The corrective adjustment will be applied as soon as practicable to the next subsequent regular monthly bill. Any overpaid amount attributed to such billing errors shall be returned by the owing Party upon determination of the correct amount with no interest.

**8.6**        **Billing Disputes.** The Parties shall have the right to dispute the accuracy of any bill or payment for a period not to exceed three months from the date on which the bill was initially delivered. Following this two year period, the right to dispute a bill is permanently waived for any and all reasons, including, but not limited to (a) errors, (b) omissions, (c) Agent's actions, and (d) the Operating Committee's decisions, Agreement interpretations and direction in the administration of the Agreement. Any amounts collected or reimbursed due to such disputes shall exclude interest.

## **ARTICLE IX**

### **IX FORCE MAJEURE**

**9.1**        **Events Excusing Performance.** No Party shall be liable to another Party for or on account of any loss, damage, injury, or expense resulting from or arising out of a delay or failure to perform, either in whole or in part, any of the agreements, covenants, or obligations made by or imposed upon the Parties by this Agreement, by reason of or through strike, work stoppage of labor, failure of contractors or suppliers of materials (including fuel, consumables or other goods and services if PJM recognizes such condition or failure as being subject to Force Majeure *i.e.* not all fuel issues are recognized by PJM as being subject to Force Majeure), failure

of equipment, environmental restrictions, riot, fire, flood, ice, invasion, civil war, commotion, insurrection, military or usurped power, order of any court or regulatory agency granted in any *bona fide* legal proceedings or action, or of any civil or military authority either *de facto* or *de jure*, explosion, Act of God or the public enemies, or any other cause reasonably beyond its control and not attributable to its neglect. A Party experiencing such a delay or failure to perform shall use due diligence to remove the cause or causes thereof; however, no Party shall be required to add to, modify or upgrade any facilities, or to settle a strike or labor dispute except when, according to its own best judgment, such action is advisable.

## ARTICLE X

### GENERAL

**10.1 No Third Party Beneficiaries.** This Agreement does not create rights of any character whatsoever in favor of any person, corporation, association, entity or customer, other than the Parties, and the obligations herein assumed by the Parties are solely for the use and benefit of the Parties. Nothing in this Agreement shall be construed as permitting or vesting, or attempting to permit or vest, in any person, corporation, association, entity or customer, other than the Parties, any rights hereunder or in any of the resources or facilities owned or controlled by the Parties or the use thereof.

**10.2 Waivers.** Any waiver at any time by a Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. Any delay, short of the statutory period of limitation, in asserting or enforcing any right under this Agreement, shall not be deemed a waiver of such right, except as otherwise set forth herein.

**10.3 Successors and Assigns.** This Agreement shall inure to the benefit of and be

binding upon the Parties only, and their respective successors and assigns, and shall not be assignable by any Party without the written consent of the other Parties except to a successor in the operation of its properties by reason of a reorganization, to comply with state or federal restructuring requirements, or a merger, consolidation, sale or foreclosure whereby substantially all such properties are acquired by or merged with those of such a successor.

**10.4**     **Liability and Indemnification.** SUBJECT TO ANY APPLICABLE STATE OR FEDERAL LAW THAT MAY SPECIFICALLY RESTRICT LIMITATIONS ON LIABILITY, EACH PARTY SHALL RELEASE, INDEMNIFY, AND HOLD HARMLESS THE OTHER PARTIES, THEIR DIRECTORS, OFFICERS AND EMPLOYEES FROM AND AGAINST ANY AND ALL LIABILITY FOR LOSS, DAMAGE OR EXPENSE ALLEGED TO ARISE FROM, OR BE INCIDENTAL TO, INJURY TO PERSONS AND/OR DAMAGE TO PROPERTY IN CONNECTION WITH ITS FACILITIES OR THE PRODUCTION OR TRANSMISSION OF ELECTRIC ENERGY BY OR THROUGH SUCH FACILITIES, OR RELATED TO PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, INCLUDING ANY NEGLIGENCE ARISING HEREUNDER. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANOTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES WITH RESPECT TO ANY CLAIM ARISING OUT OF THIS AGREEMENT.

**10.5**     **Notice.** Any notice or demand for performance required or permitted under any of the provisions of this Agreement shall be deemed to have been given on the date such notice, in writing, is delivered by hand or deposited in the U.S. mail, postage prepaid, addressed to the Parties at their principal place of business at 1 Riverside Plaza, Columbus, Ohio 43215, or in such other form or to such other address as the Parties may stipulate.

**10.6**     **Interpretation.** In this Agreement: (a) unless otherwise specified, references to

any Article or Section are references to such Article or Section of this Agreement; (b) the singular includes the plural and the plural includes the singular; (c) unless otherwise specified, each reference to a requirement of any governmental entity or regional transmission organization includes all provisions amending, modifying, supplementing or replacing such governmental entity or regional transmission organization from time to time; (d) the words “including,” “includes” and “include” shall be deemed to be followed by the words “without limitation”; (e) unless otherwise specified, each reference to any agreement includes all amendments, modifications, supplements, and restatements made to such agreement from time to time which are not prohibited by this Agreement; (f) the descriptive headings of the various Articles and Sections of this Agreement have been inserted for convenience of reference only and shall in no way modify or restrict the terms and provisions thereof; and (g) “herein,” “hereof,” “hereto” and “hereunder” and similar terms refer to this Agreement as a whole.

## **ARTICLE XI**

### **REGULATORY APPROVAL**

**11.1 Regulatory Authorization.** This Agreement is subject to and conditioned upon its approval or acceptance for filing without material condition or modification by the Commission. In the event that this Agreement is not so approved or accepted for filing in its entirety without modification, or the Commission subsequently modifies this Agreement upon complaint or upon its own initiative, any Party may, irrespective of the notice provisions in Section 2.1, withdraw from this Agreement by giving thirty (30) days’ advance written notice to the other Parties, provided that prior to such advance written notice, the Parties discuss whether any changes could be made to the Agreement to preserve and maintain the relative economic positions of the Parties.

**11.2 Changes.** It is contemplated by the Parties that it may be appropriate from time

to time to change, amend, modify, or supplement this Agreement to reflect changes in operating practices, PJM procedures or for other reasons. Any such changes to this Agreement shall be in writing executed by the Parties and subject to approval or acceptance for filing by the Commission. It is the intent of the Parties that, to the maximum extent permitted by law, the provisions of this Agreement shall not be subject to change under Sections 205 and 206 absent the written agreement of the Parties, and that the standard of review for changes unilaterally proposed by a Party, a non-Party or the Commission, acting *sua sponte* or at the request of a non-Party, shall be the public interest standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), *Morgan Stanley Capital Group, Inc. v. Public Utility District No. 1 of Snohomish County*, 128 S.Ct. 2733 (2008), and *NRG Power Marketing, LLC v. Maine Public Utilities Commission*, 130 S.Ct. 693 (2010).

**IN WITNESS WHEREOF**, the Parties have caused this Agreement to be executed and attested by their duly authorized officers on the day and year first above written.

**APPALACHIAN POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**KENTUCKY POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**INDIANA MICHIGAN POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**KINGSPORT POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**OHIO POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**WHEELING POWER COMPANY**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**AMERICAN ELECTRIC POWER SERVICE CORPORATION**

By: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT 1**

**TERMS AND CONDITIONS OF CAPACITY PURCHASE AGREEMENT  
 MASTER POWER PURCHASE AND SALE AGREEMENT  
 CONFIRMATION LETTER**

This Letter of Confirmation (“**Confirmation**”) agreed upon by and between American Electric Power Service Corporation, as agent for the AEP Operating Companies (“**Seller**”), and Kentucky Power Company (“**Buyer**”) (each individually referred to herein as a “**Party**”, or collectively the “**Parties**”) confirms the terms of the Transaction (“**Transaction**”) agreed to by the Parties on \_\_\_/\_\_\_/212[ ]. The terms are as follows:

**APPLICABLE AGREEMENT(S):**

This Confirmation constitutes a Confirmation as referred to in the Master Power Purchase and Sale Agreement, **as published by the Edison Electric Institute (EEI) and the National Energy Marketers Association, Version 2.1 (modified 4/25/00)**, (with no elections made on the Cover Sheet, but making the Credit Assurance provisions in Sections 8.1(b) and 8.2(b) as revised hereinabove applicable and the Confidentiality provisions in Article 10 applicable) and Seller’s Market-Based Rate Tariff, FERC Electric Tariff, (Wholesale Tariff) as incorporated herein by this reference (the “Master Agreement”). All of the terms and conditions in the Master Agreement shall be incorporated herein by this reference. Any inconsistency between this Confirmation and the Master Agreement will be resolved in favor of this Confirmation. Terms used but not defined herein shall have the meanings ascribed to them in the Master Agreement and Cover Sheet. Capitalized terms used but not defined herein or in the Master Agreement shall have the meanings ascribed to such terms in the PJM Rules.

Subject to the terms and conditions set forth in the Master Agreement and this Confirmation, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Product, for the applicable Contract Price, as described hereinafter:

**TERMS:**

1. **Product:** PJM Capacity Performance Unforced Available Capacity that qualifies to be used for PJM RTO RPM or FRR.
2. **Quantity:** The Quantity is: [ ] MW for June 1, 202[ ] through May 31, 202[ ] for Contract Price billing purposes.

3. **Contract Price:** \$\_\_\_\_./MW-day
4. **Delivery Period** From and including Hour Ending (“**HE**”) 0100, Eastern Prevailing Time (“**EPT**”) on June 1, 202[ ] through and including HE 2400, EPT, on May 31, 202[ ].
5. **Scheduling and Delivery:** Consistent with the foregoing, Seller and Buyer shall accomplish delivery and receipt of the Product by Seller reflecting in the Joint FRR Plan application of such UCAP for the benefit of Buyer, as a transfer within the PJM Capacity Exchange system is not required. For purposes of this Transaction, such entry and confirmation by Seller shall replace the definitions of “Schedule” or “Scheduling” in the Master Agreement. This confirmation does not transfer any right to the Energy output of any generation facility or Generation Capacity Resource nor any PJM charges or credits or any other revenues associated with that Energy.
6. **Product Limitations** Buyer may not transfer the Product without Seller’s written consent.
7. **Payment** Payments will be governed by the terms and conditions of this Master Agreement.
8. **Charges and Credits Related to UCAP, and Credit - Adequate Assurance.** Seller shall be responsible for any and all Charges charged to Buyer or Seller that are attributable to the Product and associated with Seller’s applicable Capacity Resource Facility or Facilities. Seller indemnifies Buyer for any costs incurred by Buyer regarding Buyer’s indemnity obligation to PJM Settlement, PJM or its Members for the Product. Further, Seller shall be entitled to receive any and all Credits credited to Buyer or Seller that are attributable to the Product and associated with Seller’s applicable Capacity Resource Facility or Facilities.

**Adequate Assurance:** In respect to Sections 8.1(b) and 8.2(b) of the EEI Master Agreement Form, the Credit Assurances provisions shall be applicable to both Parties.

Section 8.1(b) Credit Assurances is amended by deleting the existing provision in its entirety and substituting therefor the following:

“8.1(b) Credit Assurances. If, from time to time, Party A has reasonable good faith grounds to believe that Party B’s creditworthiness or its ability to perform under this Agreement has become materially impaired, Party A will provide Party B with written notice requesting Performance Assurance, including the basis for such request in reasonable detail, in an amount determined by Party A in a commercially reasonable manner but not to exceed an amount equal to

one hundred percent (100%) of the Termination Payment plus Party B's Independent Amount, if any, plus all amounts owed but not yet paid by Party B to Party A, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions (rounding upwards for any fractional amount to the next Party B Rounding Amount), less any Party B Performance Assurance already posted with Party A. Upon receipt of such notice, Party B shall have one (1) Business Day to remedy the situation by providing such Performance Assurance to Party A. In the event that Party B fails to provide such Performance Assurance to Party A within the time period specified in this Section 8.1(b), then an Event of Default under ARTICLE FIVE will be deemed to have occurred and Party A will be entitled to the remedies set forth in ARTICLE FIVE of this Agreement."

Section 8.2(b) Credit Assurances is amended by deleting the existing provision in its entirety and substituting therefore the following:

"8.2(b) Credit Assurances. If, from time to time, Party B has reasonable good faith grounds to believe that Party A's creditworthiness or its ability to perform under this Agreement has become materially impaired, Party B will provide Party A with written notice requesting Performance Assurance, including the basis for such request in reasonable detail, in an amount determined by Party B in a commercially reasonable manner but not to exceed an amount equal to one hundred percent (100%) of the Termination Payment plus Party A's Independent Amount, if any, plus all amounts owed but not yet paid by Party A to Party B, whether or not such amounts are due, for performance already provided pursuant to any and all Transactions (rounding upwards for any fractional amount to the next Party A Rounding Amount), less any Party A Performance Assurance already posted with Party B. Upon receipt of such notice, Party A shall have one (1) Business Day to remedy the situation by providing such Performance Assurance to Party B. In the event that Party A fails to provide such Performance Assurance to Party B within the time period specified in this Section 8.2(b), then an Event of Default under ARTICLE FIVE will be deemed to have occurred and Party B will be entitled to the remedies set forth in ARTICLE FIVE of this Agreement."

9. **Mobile-Sierra  
and  
Confidentiality:**

All rates, terms and conditions as specified in the Master Agreement and this Confirmation shall remain in effect in accordance with their terms and shall not be subject to change through application to the Federal Energy Regulatory Commission ("FERC") pursuant to the provisions of Section 205 or 206 of the Federal Power Act. Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of the Master Agreement or this Confirmation, whether proposed by a Party,

a non-party, or the FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956) and clarified by Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish, 554 U.S. 527 (2008) and by NRG Power Marketing LLC v Maine Pub. Util. Comm'n 558 U.S. (2010)(the "Mobile-Sierra" doctrine).

The terms and conditions of this Confirmation, and all documents relating to this Confirmation and any information made available by one party to the other party with respect to this Confirmation are confidential (collectively referred to hereafter as "Confidential Information") and governed by the Confidentiality provisions set forth in Section 10.11 of the Master Agreement. For the avoidance of doubt, the foregoing does not restrict either party from Scheduling the Product.

#### 10. Definitions:

**"AEP Operating Companies"** means Appalachian Power Company, Indiana Michigan Power Company and Wheeling Power Company.

**"Capacity Resource"** has the meaning given to that term by Section 1.8 of the PJM RAA.

**"Charge"** means any Compliance Charges billed or assessed by PJM to Buyer or to Seller, including charges billed by PJM to, and paid by, Buyer under Schedule 9-5 (*Capacity Resource and Obligation Management Service*) and Schedule 9-6 (*Management Service Cost*) of the PJM OATT.

**"Compliance Charges"** means any Capacity Resource Deficiency Charges or resource performance assessments, Peak Hour Period Availability Charges (EFORp), Generation Resource Rating Test Failure Charges, Peak Season Maintenance Compliance Penalty Charges, Load Management Event Penalty Charges and Daily Load Management Test Failure Charges, Non-Performance Charges or Assessments, Emergency Procedure Charges, or Transmission Upgrade Compliance Penalty Charges, or other charges related to the Product, as such charges are defined in the PJM Agreements and PJM Manuals.

**"Credits"** means any refund or adjustment in connection with the settlement or re-settlement of Charges or Compliance Charges, or relief from Compliance Charges and Peak Hour Availability Credits, Performance Credits, in each case as determined by PJM.

**"Generation Capacity Resource"** has the meaning given to that term in Section 1.33 of the PJM RAA.

**“Locational Deliverability Area” or “LDA”** – sub-regions in PJM used to evaluate Locational Constraints as referenced in PJM Manual 18. LDAs include EDC zones, sub-zones, and combination of zones.

**“Members”** has the meaning given to that term in the PJM Agreements.

**“Peak Hour Period Availability Credits”** means the allocation of Peak Hour Period Availability Charges or Credits, as defined in PJM Manual 18.

**“PJM Agreements”** means the PJM OATT, the PJM RAA, and the PJM Manuals through the Delivery Period.

**“PJM OATT”** means the *Open Access Transmission Tariff of PJM*, as such agreement is in effect through the Delivery Period.

**“PJM Settlement”** means PJM Settlement, the PJM Interconnection, LLC, and other Members.

**“PJM RAA”** means the *Reliability Assurance Agreement Among Load Serving Entities in the PJM Region*, as such agreement is in effect through the Delivery Period.

**“Unforced Capacity”** has the meaning given to that term in Section 1.86 of the PJM RAA.

**“RTO”** means Unforced Capacity deliverable to any unconstrained Locational Deliverability Areas (ie. LDAs without any Locational Constraints) within PJM for a given PJM Capacity Delivery Year (ie 2023-2024)

[signatures on next page]

IN WITNESS WHEREOF, the Parties have caused this Confirmation to be duly executed as of the date first above written.

**SELLER**

By: \_\_\_\_\_  
Name:  
Title:

**BUYER**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE OF LEGACY HEDGE, TRADING AND COMMODITY POSITIONS AS OF  
CLOSING DATE**

**Agent to separately provide Kentucky Power within 20 days of Closing Date.**